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NELSON, JOSEPH

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## INTRODUCTION.

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THE object of this pamphlet is to place before the English public, and the new Shareholders in the Hudson's Bay Company, a plain statement of facts, founded on evidence brought before a Parliamentary Committee, and subsequent correspondence between the Canadian Executive and the Imperial Government. We think it will be shown :—

- 1st. That the territory claimed by the Hudson's Bay Company is widely different from that derived under its Charter, granted by Charles the Second.
- 2nd. That Canada has never admitted the *exclusive* right of the Hudson's Bay Company to any portion of the territory claimed under their Charter.
- 3rd. That although Crown Lawyers have given opinions favourable to the territorial rights of the Company, it has never been submitted to a competent tribunal, nor tried in the only way Englishmen are accustomed to determine such questions.
- 4th. That the one hundred million acres of fertile land, with the vision of which Mr. Heath dazzled the imagination of the Shareholders, are a myth.

Not one Englishman in a thousand conversant with the ordinary institutions of his country knows anything about the

Hudson's Bay Company, beyond the fact of the Company dealing in furs ;—and the privileges it has enjoyed were long a matter of indifference, until the abolition of monopolies became a necessity of the age.

A few particulars on this head may be useful in forming opinions on the evidence contained in this pamphlet. The Company is held in parts or shares, their actual business being confined to trading in furs, and in barter with the Indians—*40 per cent. of the profits belonging to the partners in America.* The only property possessed by the Company consists of squatting stations, materials, &c., spread over a large tract of wild country never yet brought under cultivation, and only deriving any value when used in the fur trade. It may be that the balance of capital not actually required in the purchase from the old Company (in fact, the present shareholders' money) will yield some return of interest, but this can only be known when the hidden mysteries of Fenchurch Street are revealed in the shape of a balance sheet. What arrangements the new Company has made with its partners abroad is not known, but it is evident their interests cannot be compromised, and that, without the services of such partners in keeping up a supply of furs, there would be no dividends.

The simple question, apart from the mere operations of a trading Company possessing no sovereign jurisdiction, is, whether it is possible that a Company acting independently of the Canadian Government, and without any direct responsibility towards the British Crown, can be entrusted with the settlement of questions in which both Canada and the British public are vitally concerned? To colonize or to utilize the vast territory lying between Canada and the Rocky

Mountains will require *a large outlay of money*, and it can only be done by the united action of the Canadian and the English Governments. We leave the shareholders in the new Company to draw their own conclusions upon the discrepancy between the statements in this pamphlet and the one made by the Chairman of the International Financial Society. If shareholders imagine that our Government is prepared to foist a job on the country, we think they will find themselves mistaken; and it is well known that the Canadian Government is as hostile to the claims of the Hudson's Bay Company as they have ever been, regarding it very justly in the light of an odious monopoly, injurious to the best interests of our North American Colonial Possessions.

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LONDON, MAY, 1864.



## THE HUDSON'S BAY COMPANY.

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On the morning of the third of July of last year it was announced in joyful terms, throughout the length and breadth of the land, that the last of our great monopolies was at an end, and that a new era in the progress of the British nation had begun.

This turns out to have been an entire mistake ; the monopoly, with all its baneful influence, exists as perfect as ever ; the " transaction " was but a successful stroke of that policy so characteristic of the dealings of the Hudson's Bay Company, viz., that of drawing their opponents into a few heads, and then purchasing their silence by admitting them to a share of the spoil. The whole fur-trading interests of Canada merged in the North-West Company of Montreal, and they in turn, represented by Messrs. Ellice and the McGillivrays, coalesced with the Hudson's Bay Company in 1821, and left Canada the victim. The " trans-



action" of last year differs in this particular: it only duped a portion of the British public, but it could not have been successfully effected, except by the aid of parties whom the public believed represented the interests of Canada.

These parties comprised; 1st, the late agent of the North-West Transit Company—a Company incorporated by the Canadian Parliament with similar powers over the North-West Territory to those exercised by the Hudson's Bay Company; 2nd, the President of the Grand Trunk Railway of Canada; and 3rd, the ex-Governor-General of Canada.

We will deal with them in the order in which they appear, and take first the Agent of the North-West Transit Company. In 1858 the Parliament of Canada granted a Charter of Incorporation to this Company, empowering them, besides trading in furs, tallow, buffalo meat, hides, fish oil, and other articles of commerce, to improve and render navigable the various channels of water-communication, to construct links of roads, tramways, and railways between navigable lakes and rivers, so as to provide facilities for transport from the shores of Lake Superior to Frazer River, &c., &c. The Board of Directors comprised many of the leading men in Canada; they appointed a firm in London as their Agents for the purpose of raising the necessary capital, and furnished them with every possible information as to the resources of the North-West Territory. The head of the

firm of these London Agents became last year a Director of the International Financial Society, and forms one of the connecting link between that Society and the Hudson's Bay Company.

2nd. In 1861, a gentleman, well-known in connexion with English railways, became President of the Grand Trunk Railway of Canada. He had no sooner entered upon his office, than he was desired by the Canadian people to lend his powerful aid in opening up the North-West Territory. Undoubtedly, no man ever before possessed such power to make or mar the project. He was a man of indomitable perseverance. He was on intimate relations with, and possessed the confidence of, the Colonial Minister. He was President of a railway running from the Gulf of St. Lawrence for 1,000 miles direct to the borders of the great North-West. He possessed the confidence of and represented an English proprietary of £15,000,000, whose interests would be immensely benefited by the opening up for settlement of the country in question. He had also the promise of the cordial support of the British North American Governments. He was therefore in a position to have exacted almost any terms from the Hudson's Bay Company. He complied with the request made to him, and enlisted the co-operation of a number of gentlemen of the highest position and influence in London, who addressed the following letter to the Colonial Minister :—

LONDON, 5th July, 1862.

MY LORD,

The growing interest felt by the commercial world in British Columbia, and in the communications which commerce, as well as considerations of empire, require across the continent of British North America, renders it, as it appears to us, opportune and desirable for some adequate organization to apply itself, under the sanction of Government, to the task of providing a telegraphic service, and of securing the means of travelling with regularity to the British territory on the Pacific.

Connected with a country so new and so vast, and as to which so little is popularly known, such an enterprise could only hope for success in the event of its being undertaken with the full approbation and support of Government.

As a preliminary to any practical discussion of the question, it is desirable to ascertain how far Her Majesty's Government recognise the importance and desirability of such an enterprise to be placed in proper hands, and also how far assistance would be given to aid in its prosecution.

Parliament is naturally averse to the increase of the national burdens, and it may be that a money grant might be out of the question; but without adding to the expenditure of the country, there are large resources available in the shape of territory. Would, therefore, the Government, if approving such an attempt, be ready to grant to any sound and sufficient company a considerable tract of land in aid to the construction of the means of communication by telegraph, and the Provision of the means of transit across the continent?

Knowing the interest which Your Grace feels in the progress of the British empire in North America, we do not hesitate thus to call attention to the subject.

We have, &c.,

(Signed)

THOMAS BARING.

GEO. CARR GLYN.

K. D. HODGSON.

GEO. G. GLYN.

R. W. CRAWFORD.

WILLIAM CHAPMAN.

TO HIS GRACE THE DUKE OF NEWCASTLE, K.G.

&c.

&c.

&c.

They had several interviews with His Grace, and submitted a practical proposition for opening the country by road and telegraph. The Colonial Minister desired them to see and obtain, if possible, the friendly co-operation of the Hudson's Bay Company.

A letter was addressed to the Company by direction of the Duke of Newcastle on the 21st November, 1862, stating that it was desirable that they should arrange an interview with Mr. Thomas Baring or Mr. Edward Watkin.

They did so, but it was found that Company were not disposed to render any facilities at all commensurate with such a laudable undertaking. It was therefore thought desirable that a little ventilation should be given to the claims set up, and the obstructions given by the Hudson's Bay Company. This was tried and found eminently successful.

On the 8th of December, 1862, Messrs. Sicotte and Howland, two Members of the Canadian Government, and Messrs. Glyn, Chapman, Newmarsh, Benson, and Watkin, held a meeting at No. 67, Lombard Street, for the purpose of arranging the conditions on which a company should be formed for carrying out the construction of a road and telegraph from Lake Superior to the Pacific. In the second paragraph of the Memorandum drawn up, it was agreed,—

2. That similar rights and privileges as were granted to the "North-West Transit Company," and to others, by the Canadian Parliament, be secured to the Company proposed to be formed.

Memorandum.—It would be desirable, if fair terms can be agreed, that the property and rights of the Transit Company, or others, be incorporated with those of the new company, thereby securing a fair protection to any existing interests, and unity of action in Canada.

Unfortunately, whilst these negotiations were pending, the International Financial Society was formed, and amongst its Directors ranked the name of the senior partner of the former Agents of the North-West Transit Company; and it is a remarkable fact that shortly after the formation of the "International," the President of the Grand Trunk Railway, and the late Agent of the North-West Transit Company, dispensed with the co-operation of the Canadian Government and the North-West Transit Company or any other existing interest in Canada, and also of those gentlemen of influence and high position in this country who had been acting with them up to that time, and, by themselves, negociated the "transaction," the conclusion of which was conveyed to the Duke of Newcastle in the following letter :—

HUDSON'S BAY HOUSE, LONDON,

MY LORD DUKE, 15th June, 1863.

With reference to Mr. Elliott's letter of the 21st of November last, expressing Your Grace's desire that this Board should place itself in communication with Mr. Edward Watkin, with a view to the consideration of proposals for the purchase of the whole of the rights of the Hudson's Bay Company, I have now the honour to inform Your Grace, that in compliance with Your Grace's suggestions, terms have been agreed upon, by which the whole interests of the Hudson's Bay Company are to be transferred to the parties represented by Mr. Edward Watkin.

I have, &c.

(Signed) H. H. BERENS, Governor.

HIS GRACE THE DUKE OF NEWCASTLE, K.G.

&c. &c. &c.

Which gave to the Hudson's Bay Company Shareholders £500,000 more than their Shares were worth in the market at that time, as shown in the following statement, which appeared in the "money article" of the *Times* on the 18th June last:—

The International Financial Society have made arrangements for the purchase of the entire property and rights of the Hudson's Bay Company, giving the price of £300 for every £100 stock of that Company. Its total capital is £500,000, and the amount of the purchase will therefore be £1,500,000. A deposit of £100,000 has already been paid, and the remainder is to be met on the 1st of July next, or interest thereon is to be allowed to the Hudson's Bay proprietors at the rate of 5 per cent. Some considerable time back the price of Hudson's Bay stock was 250, but during the last five years it has been about 200. The transaction has been negotiated by parties connected with Canadian interests, and annexed is the circular addressed to the Hudson Bay stockholders, inviting their acquiescence in it, and to which an affirmative response seems, for the most part, to have been promptly accorded. The number of proprietors of Hudson's Bay stock is 285.

"HUDSON'S BAY HOUSE, LONDON,

"June 15th.

"SIR,

"An opportunity now offers to the proprietors for disposing of their stock in this Company at the rate of £300 per £100 stock at July dividend.

"You are no doubt aware that for some years past the price has ranged below £200.

"The parties who are prepared to take the stock at the above price have, it is understood, in view the extension of the operations of the Company to objects not heretofore contemplated, and, as Members of the Committee of the Company, we, as well as a large number of the principal proprietors, have already assented to a sale of our stock upon the proposed terms.

"We have considered it right to stipulate that every pro-

prietor shall have the option of disposing of his stock at the same price, and we have, therefore, to request that you will inform us, on or before the 22nd instant, whether you are disposed to sell your stock at the price we have mentioned, and should you determine to do so, you will be so good as to sign and forward to us the accompanying letter, under cover, to 'Thomas Fraser, Esq., Hudson's Bay House, London.'

"We are, Sir, your very obedient Servants,

"H. H. BERENS, Governor.

"EDWARD ELLICE, Deputy-Governor.

"SELKIRK.

"R. W. PELLY.

"A. MATHESON.

"EDEN COLVILLE.

"KIRKMAN D. HODGSON.

"GEORGE LYALL.

"RICHARD BENYON."

On the second of July, 1863, the Colonial Minister, in his speech in the House of Lords, distinctly stated in reply to Lord Donoughmore that the same body of gentlemen (Mr. Baring and others) who had long been in communication with him for opening up the country by road and telegraph had become, through the International Financial Society, the purchasers of the interests of the Hudson's Bay Company. The next day the prospectus of the Hudson's Bay Company appeared without the names of any of the gentlemen before stated appearing upon it. It therefore at once became evident that the Colonial Minister had been labouring under a false impression to use the mildest term.

3rd. The issuing of the prospectus inviting the public to subscribe for the new Hudson's Bay

Stock brings us to the part which the ex-Governor-General of Canada, and now Governor of the Hudson's Bay Company, has played in this "transaction."

In 1857 the House of Commons appointed a Select Committee "to consider the state of those British Possessions in North America which are under the administration of the Hudson's Bay Company, or over which they possess a license to trade." At this time the present Governor of the Hudson's Bay Company was Governor-General of Canada, and he called his Executive Council together, and the result was that he sent over the Chief Justice Sir Henry Draper to represent "Canadian rights and interests" before that Committee, and the following is a copy of the instructions given to him:—

*Letter from E. A. MEREDITH, Esq., to the HON. CHIEF  
JUSTICE DRAPER, C.B.*

SECRETARY'S OFFICE, TORONTO,

SIR,

20th February, 1857.

I have the honour, by command of His Excellency the Governor-General, to communicate to you hereby his Excellency's instructions for your guidance in connexion with your mission to England as the special agent appointed to represent Canadian rights and interests before the proposed Committee of the House of Commons, on the subject of the Hudson's Bay Territory.

I am to premise, however, that as it is impossible to anticipate the nature of the evidence that may be taken, or the conclusion that may be arrived at by the Committee, or the course which Parliament or Her Majesty's Government may think proper to adopt on the report of the Committee, it is not



in His Excellency's power to convey to you at present any instructions of a precise or definite character.

His Excellency has, however, entire confidence in your knowledge and discretion, and he has the more readily entrusted this important mission to you, inasmuch as your high position in the colony removes you from all the ordinary influences of local or party consideration.

Immediately on your arrival in London you will place yourself in communication with the Right Honourable the Secretary of State for the Colonies (to whom these instructions have been communicated), and as soon as any Parliamentary Committee on the subject of the Hudson's Bay Company or Territory is constituted, you will take steps for offering to afford all information in your power relating to the interests or claims of Canada.

You will consider it as a part of your duty to watch over those interests by correcting any erroneous impressions, and by bringing forward any claims of a legal or equitable kind which this province may possess on account of its territorial position or past history.

You will not consider yourself as authorized to conclude any negotiation, or to assent to any definite plan of settlement affecting Canada, without reporting the particulars of the same, and your own views thereon, to His Excellency in Council.

His Excellency has full and complete confidence in the justice and consideration of Her Majesty's Government, and he is sure that the interests and feelings of Canada will be consulted so far as is consistent with right and justice. The people of Canada desire nothing more.

His Excellency feels it particularly necessary that the importance of securing the North-West Territory against the sudden and unauthorized influx of immigration from the United States should be strongly pressed. He fears that the continued vacancy of this great tract, with a boundary not marked on the soil itself, may lead to future loss and injury both to England and Canada. He wishes you to urge the expediency of marking out the limits, and so protecting the frontier of the lands above Lake Superior, about the Red River, and from thence to the Pacific, as effectually to secure them against violent seizure or

North  
West  
Territory

irregular settlement until the advancing tide of emigrants from Canada and the United Kingdom may fairly flow into them, and occupy them as subjects of the Queen, on behalf of the British empire.]

With these objects in view, it is especially important that Her Majesty's Government should guard any renewal of a license of occupation (should such be determined on), or any recognition of rights by the Company, by such stipulations as will cause such license or such rights not to interfere with the fair and legitimate occupation of tracts adapted for settlement.

*no  
renewal  
to  
Hudson  
Bay Company*

It is unnecessary, of course, to urge in any way the future importance of Vancouver's Island as the key to all British North America on the side of the Pacific, situated as it is between the extensive seaboard of Russian America and the vast territory in the hands of the United States.

His Excellency cannot foresee the course which a Committee of the House of Commons may see fit to pursue in the proposed inquiry, or determine beforehand on what points evidence may be required.

At any moment, however, His Excellency will be ready to attend to your suggestions, and supply such information, either by documentary evidence, or by witnesses from Canada, as you may think necessary and he may be able to send over.

You will, of course, act upon such further instructions as may from time to time be conveyed to you by His Excellency's direction.

I have, &c.,

(Signed)

E. A. MEREDITH,

*Assistant Secretary.*

Then follows copy of the Letter addressed by Mr. Chief Justice DRAPER to Her Majesty's Secretary of State for the Colonies, bearing date 6th May, 1857, together with a Copy of the Memorandum therein referred to:—

33, SPRING GARDENS,

SIR,

6th May, 1857.

In the last interview with which you favoured me, I took occasion to advert to the question of boundary between

Boundary

12

to be  
settled

Canada and the Hudson's Bay Territory, as one which required to be settled as a necessary preliminary to many other very important inquiries involved in the matters submitted to a Committee of the last House of Commons, and, as I understood, to be again submitted to the new Parliament.

I alluded to the difference between the views of the Hudson's Bay Company, as expressed in former times, and those which are now, and have been within the last forty years, advanced by them on this point; and I stated my readiness to submit a memorandum to you in relation thereto, which you were pleased to signify your readiness to receive and consider.

Privy  
Council

That Memorandum I have now the honour to enclose. As the construction of the language of the charter, and the extent of the territory purporting to be granted, are involved, it may be considered desirable that the matter should be referred to the Judicial Committee of the Privy Council. In this event, I venture to request that counsel on the part of the Province may be permitted to attend to watch the argument, and, if it be deemed necessary, that they may be heard in support of those views which more immediately affect the interests of Canada.

Hudson  
Bay  
Territory  
Belongs

I have suggested a reference to the Judicial Committee, because I think its opinion would command the ready acquiescence of the inhabitants of Canada as to their legal rights, and because I believe they entertain a very strong opinion that a considerable portion of the territory occupied or claimed by the Hudson's Bay Company will be found to lie within the proper limits of that Province.

to  
Canada

Whether it would be desirable to sever this from the more general question of the legality and validity of the charter, is a matter I should desire to leave for your consideration, but in any event I think it expedient that counsel should be permitted to attend to watch the interests of the Province.

I have, &c.,

(Signed) Wm. H. DRAPER.

THE RIGHT HON. H. LABOUCHERE,

&c. &c. &c.

The Memorandum referred to will be found in

the Parliamentary Report on the Hudson's Bay Company, page 374, and commences as follows:—

It is not proposed at present to discuss the validity of the charter of the Hudson's Bay Company. A careful perusal of it will suggest many doubts whether it be not altogether void. But assuming that it may be sustainable for every or for any of the purposes for which it was intended, and for the moment conceding that the indefinite description of the territory purporting to be granted does not vitiate the grant, there is a question as to the limits of that territory in which the province of Canada is deeply interested.

The parts of the charter bearing on this question are as follow:—

1. "All the lands and territories upon the countries, coasts, and confines of the seas, bays, lakes, rivers, creeks, and sounds aforesaid" (stated in a preceding part to be those which lie within the entrance of the straits commonly called Hudson's Straits, in whatsoever latitude such bays, &c., should be), "that are not already actually possessed by or granted to any of our subjects, or possessed by the subjects of any other Christian prince or state, with the fishing of all sorts of fish, whales, sturgeons, and all other royal fishes in the seas, bays, inlets, and rivers within the premises; and the fish therein taken, together with the royalty of the sea upon the coasts within the limits aforesaid, and all mines royal, as well discovered as not discovered, of gold, silver, gems, and precious stones, to be found or discovered within the territories, limits, and places aforesaid; and that the said land be from henceforth reckoned and reputed as one of our plantations or colonies in America, called Rupert's Land. And, further, we do by these presents, for us, our heirs and successors, make, create, and constitute the said Governor and Company for the time being, and their successors, the true and absolute lords and proprietors of the same territory, limits, and places aforesaid, and of all other the premises hereby granted as aforesaid, with their and every of their rights, members, jurisdictions, prerogatives, royalties, and appurtenances whatsoever, to them the said Governor and Company, and their successors for ever, to be holden of us, our heirs and successors,

as of our manor of East Greenwich, in our county of Kent, in free and common soccage."

And, 2. "And furthermore, we do grant unto the said Governor and Company and their successors, that they and their successors, and their factors, servants, and agents, for them and on their behalf, and not otherwise, shall for ever hereafter have, use, and enjoy, not only the whole, entire, and only trade and traffic, and the whole, entire, and only liberty, use, and privilege of trading and trafficking to and from the territory, limits, places aforesaid, but also the whole and entire trade and traffic to and from all havens, bays, creeks, rivers, lakes, and seas into which they shall find entrance or passage, by water or land, out of the territories, limits, or places aforesaid, and to and with all the natives and people inhabiting within the territories, limits, and places aforesaid, and to and with all other nations inhabiting any of the coast adjacent to the said territories, limits, and places which are not granted to any of our subjects."

The Memorandum then proceeds with the history of the early settlements of the English and French in the North-West, of the disputes that arose, owing to the encroachments of the French on the shores of Hudson's Bay, and the memorials which the English Company addressed to their Government for protection, and concludes with a paper relative to Canadian boundaries, all showing most conclusively that neither by priority of discovery, by settlement, nor by treaty, nay, nor even by their own definition of the boundary themselves, when they were called upon by the Home Government to declare, have the Hudson's Bay Company any right whatever to the valleys of the Assiniboine, the Red River, and the Saskatchewan, and it concludes as follows:—

It is now becoming of infinite importance to the Province of

Hudson  
Bay  
have no  
right to  
Saskatchewan

Canada to know accurately where that boundary is. Plans for internal communication connected with schemes for agricultural settlements, and for opening new fields for commercial enterprise, are all, more or less, dependent upon or affected by this question; and it is to Her Majesty's Government alone that the people of Canada can look for a solution of it. The rights of the Hudson's Bay Company, whatever they may be, are derived from the Crown; the Province of Canada has its boundaries assigned by the same authority; and now that it appears to be indispensable that those boundaries should be settled, and the true limits of Canada ascertained, it is to Her Majesty's Government that the Province appeals to take such steps as in its wisdom are deemed fitting or necessary to have this important question set at rest.

On the 21st of May, 1857, Chief Justice DRAPER was examined before the Committee of the House of Commons, Mr. LABOUCHERE in the Chair, and gave the following evidence:—

Under what circumstances are you now visiting this country?

I was requested by the Government of Canada, through the medium of two of its members, to undertake the duty of coming to England for the purpose of watching the investigation which, it had been communicated to them, was to take place before a Committee of the House of Commons, with the view of pressing, whenever I deemed it necessary for the interests of the Province, certain views which the Government of the Province adopted in reference to their rights and interests in this question. I had written instructions from the Government of Canada to that effect, which I can lay before the Committee if they desire it. They were communicated to me through the Provincial Secretary, and emanating from the Government, giving me general directions what I was to do.

In what manner do you conceive that the inquiry before this Committee particularly affects the interests of Canada?—First, very materially with regard to what I conceive to be the true boundary of Canada. I may say, secondly, with regard to the deep interests that the people of Canada have that that territory

should be maintained as a British possession. I may say, thirdly, because the people of Canada look to it as a country into which they ought to be permitted to extend their settlements. Those three points I think would involve all that I could say upon that subject.

Taking the points in the order in which you have mentioned them, first of all, with regard to the question of the limits of the province of Canada, are there any statements which you wish to lay before the Committee on that head?—I should say with regard to that point that the view which is taken, be it sound or unsound, is this: at present it is understood by us that the Hudson's Bay Company claim as a legal right all the land which is drained by any streams, no matter how remote their sources may be, which flow into either the Hudson's Bay Straits or Hudson's Bay. We consider that that is an ill-founded claim, principally upon this ground, that it is a claim of which we can find no trace until a very modern period, and is quite inconsistent with the claims advanced by that Company for nearly a century and a half. To save time, I have prepared extracts from various documents, emanating from the Company themselves, with some few other documents; it is a paper which it would save a great deal of time to put in, because I can give every place where the extracts are taken from, and therefore reference to the original documents can always be had. I would also desire to say that in every extract which I have made, I have made it a complete extract of all that is stated on the question; and if it involves anything favourable to the Hudson's Bay Company, it will be found in those portions of which I have made the extract.

Are those extracts made from documents which are accessible to everybody?—I believe I may say every one:—I think so, easily accessible.

Sir JOHN PARKINGTON.—They specify, of course, in every case what they are?—Yes. (*The Witness delivered in the Paper.*)

CHAIRMAN.—Upon this question of the boundaries of the colony, passing by for the moment the question of legality, will you have the goodness to state to the Committee what you think it would be for the interest of the colony of Canada to do with regard to boundaries?—The first point which we

should desire, I think, with regard to the interests of Canada, would be to obtain a determination of what our boundaries actually are ; knowing that, we are then in a better position to state whether we desire to go beyond them, and if so, for what purposes and to what extent.

Will you favour us with your individual opinion of what it would be for the advantage of Canada to have as boundaries ; how far you would extend them ?—I should myself propose, if I were making a proposition upon a subject of that sort, that Canada should have in the first place a free right to explore and survey, in order to ascertain the capabilities of the country ; in the second place, to open communication roads in the manner pursued in that country, by putting settlers on each side of them with free grants, which, in the course of a comparatively short period of time, facilitates the intercourse with those portions of the country which hitherto have been inaccessible, or very difficult of access by persons going to settle ; in the next place I should propose that Canada should be permitted to lay out townships, and that as fast as she did actually lay them out and settle them, these portions of the territory so settled should become incorporated with and form part of the province ; I would limit it under all circumstances and at any distant period by the Rocky Mountains ; I should never dream of pushing beyond them.

Do you think it quite clear that the Judicial Committee of the Privy Council would consider themselves authorized to deal with that question if it were raised by the Crown, and not by a private individual ?—Reasoning by analogy, which is the only way in which I can do it, from what they have done in other cases, I should answer that question affirmatively. I have taken the trouble to get together some few cases in which I think the same principle has been involved where reference has been made for the Queen's information to the Judicial Committee of the Privy Council.

Would that answer apply equally to the claims of the Company with regard to the possession of territory and their claims with regard to the exclusive license to trade ?—With regard to the exclusive license to trade (perhaps with the prejudice which lawyers have in favour of their own particular



views), it always has appeared to me that the statute of James the 1st put an end to it. I never could understand how it could be contended for in a court of law for an instant. The exclusive license to trade appears to me to be diametrically contrary to the statute of James the 1st. The only question, I think, which could arise upon it, speaking always individually, would be whether or not that statute applied to a colony or was confined to a monopoly within the mother country. Assuming that it was confined to a monopoly within the mother country, it still, I think, would be open to a very fair argument that it did apply to this Company, because their charter makes the seat of their government to be in England. The monopoly of the fur-trade, that is to say, the sale of all that they import from that country, is in their hands in England; it is a monopoly in England.

I believe both these questions have come before the consideration of very eminent lawyers at different times, going back to the time of Lord Mansfield; and many eminent men since have had these very questions referred to them?—There have been opinions given. I think that one opinion was given by Lord Camden when he was either Attorney or Solicitor-General. Sir Dudley Ryder gave an opinion also.

Sir JOHN PAKINGTON.—An opinion upon what?—Upon the validity of this very charter.

CHAIRMAN.—Are you acquainted with Lord Mansfield's opinion when he was Solicitor-General?—I may have a minute of it, but I do not remember it at this moment. I think I have a memorandum of all the opinions which have been given; I have no recollection of it if I have read it. I have memorandum with regard to a variety of opinions and judicial decisions which appear to me to be in one sense bearing upon the legal question of the decision of the charter.

Will you have the goodness to put it in?—I cannot put it in in the form in which I have it at present, but I could furnish it to you; I can refer to particular portions of it.

Lawyers have expressed great doubts about these points?—I believe there have been many opinions; there were very eminent opinions taken, which are all in print. I think there were opinions taken both by the North-West Company and by

the Hudson's Bay Company. I have seen all those opinions, and I have read most of them in print, and I apprehend they are very easily accessible.

Are the Committee to understand that you would wish both the questions, that of the monopoly of trade, and that of the exclusive possession of land, to be referred to the Judicial Committee of the Privy Council, if it can so be done?—I myself should consider that that would put an end to all question, and would settle all doubts by a decision one way or the other with regard to a matter of that description unquestionably; but speaking for the Province of Canada, the point which I am particularly desirous of urging upon your consideration, and of limiting myself to as their representative, if I may so speak, would be the decision of their territorial limits; that is the point in which they are most interested, but I do not see how you can very well dispose of the one without inevitably raising the other.

Mr. CHRISTY.—The opinions taken by the Hudson's Bay Company have never been printed?—I cannot say whether they have been printed. I can only say that I have read them. The matter has been considered as a broad legal question upon the validity of the charter, and the different points that I have been speaking of, and it is that point to which I have had my attention partially directed. I have a variety of cases which I think bear upon the subject, but it is rather in the nature of a judicial argument; it is more in the nature of a brief for counsel to argue from than anything else; it is not a document drawn up in the slightest degree with the view of laying it before this Committee. I wish that to be quite understood.

Lord JOHN RUSSELL.—When the opinion of Lord Grey was known in Canada, was there a disposition to acquiesce in the mode pointed out by Lord Grey?—I am not aware that the matter was in any way discussed or considered in Canada at that particular period; I do not think it was.

Has it been since?—I cannot say that it has; I am not able to answer the question.

CHAIRMAN.—The Committee are desirous of being favoured with your opinion upon the subjects which have been raised, namely, the validity of the claims of the Hudson's Bay Com-

pany both to trade and territory; and also the manner in which you may conceive that the legality of those claims may be tested by some judicial tribunal; the Committee would be much obliged to you if you would place your views upon this subject before them, in any form which you may think expedient?—I would desire to mention a fact which is, of course, very well known to yourself, Sir, that on the 6th of May I enclosed the paper which you have before you, accompanied by a letter, which I presume I may refer to for this purpose, namely, of stating that it contained a request that Her Majesty's Government would take upon themselves, in such shape as they thought best (but I suggested the Judicial Committee of the Privy Council), the decision of the question of boundary between the province of Canada and the territory of the Hudson's Bay Company, and I asked that the province might on their part have counsel attending to watch any argument, if an argument was thought necessary, and that if thought expedient they might also be permitted to take part in it. That was the object of my request. I dare say for very many good reasons, I only received a reply to it last night; but in the meantime, imagining that that course must sooner or later be adopted, I have been preparing myself for the possibility of the submission of a question of that character, and of the larger question, if the larger question must necessarily come up. What I have been doing, therefore, has been not at all with the view of presenting anything here, but with the view of preparing myself to instruct counsel, if it became necessary to instruct them, upon the different points of law which I thought would be involved. You are asking me, in fact, to give the benefit of any little industry which I have exercised for the benefit of the province of Canada to other parties.

The Committee have no wish to ask you to communicate anything to them which you are not yourself desirous of doing.—I merely desire to give that explanation why I am reluctant to furnish the information. Individually, I can have no objection to state it.

Do you believe that the province of Canada would be disposed, themselves to raise the question of the validity of the charter of the Hudson's Bay Company, either in whole or in

Canada

disposal

the validity of the

Hudson Bay Charter

part, before either the Judicial Committee of the Privy Council, or some other tribunal?—I can best answer that question by stating that I have express instructions and authority to retain counsel to represent the province, whenever, in my judgment, it is necessary.

Am I to understand that you conceive those instructions to authorize you, if you so think fit, not merely to appoint counsel to watch the proceedings which may be instituted by the Crown or others, but yourself to originate such proceedings?—I have always considered, and I believe they consider too, that the question of boundary is a question which it rather rests with Her Majesty's Government to raise and to have decided, because both parties claim, the one under Acts of Parliament and proclamations of the Crown, the other under a charter from the Crown, and therefore it is a question of which we should naturally suppose the Crown would take upon themselves to procure the reference and the decision. Therefore, in asking permission to attend with counsel, it was not under the idea that we should take out of the hands of Her Majesty's Government the conduct of the proceeding, but that we should be permitted to watch, and if necessary take part in, the argument. At the same time, I would add, that the latter portion of that statement is entirely my own suggestion; that my instructions do not limit me to that course; and that if Her Majesty's Government were broadly to say that Canada must appear before the Judicial Committee of the Privy Council for the purpose of determining her boundaries, I apprehend that my instructions go the full length of enabling me to do so.

Are the Committee to understand that you consider that if it should be found either impossible or inexpedient on the part of the Crown properly to institute judicial proceedings, in order to try the validity of the charter of the Hudson's Bay Company, you are authorized by the colony, on their part, to institute such proceedings, in order, as you may think fit, to try the validity of that charter, either wholly or in part?—My instructions I conceive to give me a discretion; I have not made up my mind as to the mode in which I should exercise it.

LORD JOHN RUSSELL.—I understand you to give a decided opinion as to the monopoly of trade?—Upon that point I have never entertained a doubt.

ALFRED R. ROCHE, Esq., was on the 9th June, 1857, examined before the same Committee, and gave the following evidence:—

CHAIRMAN.—You are a Canadian, I believe?—I am an Englishman, but I have been in Canada for the last 16 years.

In what part of Canada have you resided?—I have resided in Quebec, in Montreal, in Kingston, and in Toronto. I have been five years in Quebec, and about five years in Montreal.

Are you in any profession?—I am attached to the Provincial Secretary's department.

In short, you are in office in a public department?—Yes.

What situation do you hold in that department?—I am fourth-clerk.

Have you visited England in any official capacity?—If you will allow me, I will hand in my instructions from the Government.

Will you have the kindness to read them?—"Secretary's Office, Toronto, 7th March, 1857.—Sir, I have the honour, by command of His Excellency the Governor-General, to instruct you to proceed without delay to London, and when there to place yourself at once in communication with and at the disposal of the Hon. Mr. Draper, in connexion with his mission respecting the Hudson's Bay Territory. It will be your business to render such assistance to Mr. Draper in the important mission with which he is charged as from your researches on the subject, or from other causes, you may be able to afford. You will deliver to Mr. Draper the accompanying copies of the report of the Commissioner of Crown Lands on the subject of the Company's claim to the territory in question.—I have, &c., T. Lee Terrill, Secretary."

MR. CHRISTY.—Will you tell the Committee what the feeling in Canada is with respect to the Hudson's Bay Company?—I think it is adverse to the Company generally. Mr. Vancoughnet stated at a public meeting, last September, that he sought a boundary for Canada on the Pacific Ocean, and that no

charter could give to a body of men control over half a continent, and that he would not rest until that charter was abolished. That has been echoed throughout the province by the press, and by public men of all degrees.

MR. GROGAN.—Does that gentleman hold any official situation?—He is the President of the Executive Council.

LORD STANLEY.—You say that that is the general feeling throughout the province?—Certainly.

Do you mean by that to say that the local Government of Canada would be prepared to take upon itself the expense and responsibility of governing the entire territory of the Hudson's Bay Company to the Pacific?—I cannot say whether they are prepared; they seem to think that the territory ought to be attached to Canada, or that it belongs to Canada.

MR. CHRISTY.—Do the provincial authorities participate in that opinion?—I have some extracts from a report of the Commissioner of Crown Lands, in which he speaks upon the subject. This has been presented to the Provincial Parliament.

The following is a copy of the report of the Select Committee of Legislative Assembly of Canada, transmitted by the Governor-General for the information of Her Majesty's Government and the Committee of the House of Commons:—

COMMITTEE ROOM, 8th June, 1857.

Present:

Hon. Mr. TERBIL, *Chairman.*

Hon. Mr. ROBINSON.	Hon. Mr. Solicitor-Gen. SMITH.
Hon. Mr. CAUCHON.	Hon. Mr. BROWN.

THE SELECT COMMITTEE appointed to receive and collect Evidence and Information as to the Rights of the Hudson's Bay Company under their Charter, the Renewal of the License of Occupation, the Character of the Soil and Climate of the Territory, and its Fitness for Settlement,—Have the honour to present their First Report, as follows:

YOUR COMMITTEE beg leave to inform your Honourable House that they have examined three witnesses, Messrs. Gladman, Dawson, and M'Donell, upon the matter referred to them

for investigation, and your Committee submit to the consideration of your Honourable House the evidence hereunto annexed of these three gentlemen.

The whole, nevertheless, respectfully submitted.

(Signed) J. LEE TERRILL, *Chairman.*

The following evidence was given by ALLEN M'DONELL, Esq.:—

The claim which the Hudson's Bay Company set up in virtue of the charter of Charles II. has engaged my attention for some years past, and the investigations which I had the opportunity of making have led to the conclusion that those claims have no foundation in law or in equity; whilst I might not be disposed to dispute that in itself the charter may be good, so far as it creates a body corporate with a common seal, and with power to sue and to be sued, yet I contend that it cannot confer upon the Hudson's Bay Company those powers and privileges which they assume to exercise under it. The Sovereign, in the exercise of the prerogative of the Crown, may grant a charter; but it has always been held that no Sovereign can grant to any of its subjects exclusive rights and privileges without the consent of Parliament; and this charter having been so granted, the powers and privileges sought to be exercised under it are illegal.

And this evidently was the opinion of the Hudson's Bay Company themselves as early as 1690, viz., 20 years after the date of this charter. At that period they petitioned for an Act to be passed for the confirmation of those rights and privileges which had been sought to be granted to them in the charter.

The Act 1st of William and Mary is the Act alluded to; it did legalise and confirm them, but only for the period of seven years, and no longer.

That Act of Parliament has never been renewed since it expired in 1697; consequently the charter is left as it originally stood, and wholly unaffected by any conformity Act of Parliament.

The very foundation for the charter is a grant of territory presumed to have been made in the year 1670. Now, as Charles II. could not grant away what the Crown of England

did not possess, much less could he grant away the possessions of another power: the very words of the charter itself exclude from the operation of the grant those identical territories which the Hudson's Bay Company now claim.

At the date of the charter these territories were then actually in the possession of the Crown of France, and held and occupied by the Company of New France, under and by virtue of a charter granted by Louis XIII. of France, and bearing date 1626, being 43 years anterior to the date of the charter by Charles II. A reference to the charter alluded to will show that it defines the very boundary of those territories which the Hudson's Bay Company now claim. A copy of the charter of Louis XIII. will be found among the Parliamentary documents of Lower Canada.

By the Treaty of Ryswick, in 1696, the whole of Hudson's Bay was recognised as belonging to the Crown of France. In that treaty no rights nor claims are provided for, or even alluded to, as regards the Hudson's Bay Company; whence it is conclusive that the Hudson's Bay Company either had no legal rights, or such rights, if they existed, were abrogated by that treaty.

By the Treaty of Utrecht, in 1713, a portion of the shores of the Hudson's Bay was ceded to England, and that was the first time that England could claim an undisputed possession there. In the treaty, stipulations were made for the necessary protection of the Company of New France, which then held the country under the charter of Louis XIII. The charter of Charles cannot be construed to have the effect of granting any lands acquired only by the Crown of England under another sovereign, and long after the death of Charles.

By the Treaty of 1763, which surrendered Canada to the British Crown, the French and Canadian people were guaranteed in their properties, and in the exercise of those rights and privileges of trade as used by them under the French dominion.

They had for a century previous carried on an extensive trade with all the western country, particularly throughout the Valleys of the Assiniboine and Saskatchewan.

The grant of every exclusive privilege of trade by the Crown of Great Britain over any portion of the country alluded to is a



direct breach of the articles of capitulation (Article 42): "The French and Canadians shall continue to be governed according to the customs of Paris, and the laws and usages established for this country, and they shall not be subject to any other imposts than those which were established under the French dominion."

The term "Hudson's Bay Territory," as used in Acts of Parliament, and which Acts the Hudson's Bay Company assume to regard as a recognition of what they call their right, can only be made to apply to such territories as lie within the Straits of Hudson's Bay, and were, in 1670, actually in possession of the Crown of England; none other could have been granted; or, if made to apply to other lands, it can only be made applicable to such territories as were at that period unknown to the Crown of England or any other power, but were subsequently discovered by the Hudson's Bay Company, in conformity with the conditions upon which the charter was granted, viz., on the discovery of a new passage into the South Sea.

The mere incidental allusion in those Acts to the "territories heretofore granted to the adventurers trading to Hudson's Bay" is not declaratory of the legality of the claim. It was well known that the Hudson's Bay Company claimed territory under a charter of Charles II.; the Legislature were not required to express opinion upon the validity of the deed, nor what were the boundaries of the country supposed to be granted. Nor do those Acts of Parliament preclude the assumed rights of the Hudson's Bay Company being inquired into, or set aside as being illegal.

Besides, when these Acts refer to the territory, and allude to the "rights of the Hudson's Bay Company," there is this very significant proviso,—such rights as the said Company are by law entitled to "claim."

A reference to the history of Canada will establish the fact, that the charter of Charles II. can confer no rights nor claims to territory.

The able memorandum furnished to the Legislature by the Honourable Mr. Cauchon recites historical facts, and furnishes data to warrant the conclusion that the assumption of power over the territory in question by the Hudson's Bay Company is a usurpation.

That portion of territory to which they limit their claim to an exclusive right of trade in virtue of a license issued to them and the partners of the North-West Company in 1821, and since renewed in 1838, will be admitted as a legal right ; but it is a right which I think the people of Canada will unanimously protest against ever being renewed.

Such exclusive privileges are antagonistic to the spirit of the age in which we live, and are opposed to the best interests of Canada, and are regarded in this country as a direct infringement upon the rights of a free people.

Immediately after the cession of Canada (about the year 1766), numerous British subjects engaged in the fur trade, and pushed their enterprises throughout the whole of British North America, trading from Montreal to Hudson's Bay, and to the Pacific shores ; these traders followed the old route of the Company of New France and the French traders. In 1784 the most of these traders united, and formed the North-West Company of Montreal. They carried on their trade also in Hudson's Bay, and sent ships there as well as the Hudson's Bay Company ; the North-West Company sent ships also round Cape Horn to the mouth of the Columbia ; the Hudson's Bay Company did not trade there at that time, nor in any part of that country which they now designate as the licensed territory.

The principal trade of the North-West Company was carried on through Canada to the shores of the Pacific ; the route pursued was from Montreal ~~via~~ the lakes to the head of Lake Superior, and thence across the continent ; the means of transport was by canoes and batteaux ; about 5,000 men were employed in this trade.

I am told by those who were partners in that Company, that the profits of the Company were very great until the Hudson's Bay Company attempted to drive them out of the country by means of force ; the contests arising from that attempt caused serious losses to each Company, and both were nearly ruined. It was then that the Companies united, and resolved to share the country between them, by setting up the claim under the old extinct charter ; and with their united means they deterred other traders entering into a competition for the trade, and this was year by year more effectually guarded against by using

every means to close up the old travelled routes, which would have pointed out the way to other traders.

Sometimes independent traders would make an establishment along Lake Superior, or some of the lakes more in the interior; these parties were driven out, and their property destroyed.

There was no means of redress, as there were no tribunals at which the perpetrators could be made to answer, and to travel with a canoe some 1,000 miles to institute proceedings was an effectual bar since 1847; steamboats now traverse along the coasts of Lake Huron and Superior, but even now with these facilities a man cannot obtain justice; the countries along these shores are neither within the limits of any organized territories, and outrages are committed by the Hudson's Bay Company with impunity.

The Hudson's Bay Company first entered into the Valley of Saskatchewan about 30 years after the cession of Canada, and whilst the North-West Company had large establishments there.

The Hudson's Bay Company did not enter into the Valley of the Assiniboine until about 42 years subsequent to the cession of the country (about 1805).

Resident traders from Montreal made establishments there as early as 1766, or about three years after the cession.

The French traders must have occupied many of the same localities near 100 years prior to that.

The Hudson's Bay Company entered into those countries from Hudson's Bay *via* Hay's and Nelson Rivers; previous to this they had confined themselves to the shores of Hudson's Bay; they did not set up a claim by virtue of the charter until many years after their first entering into these countries; they traded like any other traders, and like the North-West Company; the North-West Company was not a chartered Company, but a Joint Stock Association, and claiming no exclusive privileges.

The Hudson's Bay Company first set up the claim of exclusive rights, &c., in 1814; the late Colonel Miles McDonell did so on behalf of the Company, by issuing a proclamation as the Governor of the Assiniboine country, appointed by the Hudson's Bay Company; the contest which ensued between the two Companies originated on the assumption of exclusive rights, and not from the actual competition in trade; the trade had

always been carried on freely and without any restrictions ; the proclamation was set at defiance by the partners of the North-West Company ; among the most prominent of these were some of his own relatives.

I believe there never had been any collision between the rival traders until after the assumption of power on the part of the Hudson's Bay Company ; the legality of the claims of the Hudson's Bay Company were never subjected to the decision of a legal tribunal, unless the result of the trials of some of the partners of the North-West Company be deemed so ; these parties were charged with the crime of murder, having taken the lives of the Hudson's Bay people who sought to enforce their claims.

The Companies united in 1821, and called themselves the Hudson's Bay Company.

The effect of this union was to destroy a trade which had theretofore benefited Canada, by turning it through Hudson's Bay ; the route *via* the lakes was abandoned, not because it was a more objectionable one, but because the continuing it as the route would in all probability lead to another competition for the trade by Canadian merchants.

The united Companies succeeded in closing the route to all others who might have been disposed to compete for the trade ; having been closed for so many years, and no new trader being induced to enter into contest with the new powerful Company, the trade and the route became forgotten ; if the trade were again opened, I am convinced that as active and productive a trade as formerly would at once spring into existence.

The facilities which now offer for the successful carrying it on are as 100 to 1 as compared with the former period : for instance, it cost the North-West Company £30,000 to lay down their goods at Fort William, at the head of Lake Superior ; the same quantity of merchandise might now be laid down there for £300 or £400, and the route between this and Lake Winnipeg could for more than three-fourths of the way be made facile for a steamboat. If a large trade like that which formerly was carried on should ever be revived, there is no doubt but that steamers would ply upon the long reaches of water which exist beyond the height of land.

I am convinced that within two years a trade would be carried on along that route to the shores of the Pacific.

It was so in the early history of the country, and before steam was known, and there is no reason why such a trade should not exist now; witnesses will tell you that in 1814 and 1815 Fort William had frequently 3,000 traders assembled there; Toronto at that period could not number 500.

Had the North-West Company not united with the Hudson's Bay Company, there is no doubt but that the route *via* Lake Superior would by this time have been navigable all the way to the Saskatchewan, or at least all the portages made facile for teams, &c., and a chain of settlements would have been formed along the route.

The profits of the Hudson's Bay Company are very large. In March, 1856, it is said the trade sales amounted to near half a million; they sold of buffalo robes alone 80,000, at about £2. 10s. a-piece.

GEORGE GLADMAN, Esq., gave the following evidence:—

The memorandum of the Honourable Commissioner of Crown Lands, published in the "Return to an Address of the Honourable the Legislative Assembly," is so replete with valuable data on which to ground a report by this Committee, that I cannot regret my own inability to say anything of importance on the charter of the Company, their leases, or their titles. I perfectly agree with the Honourable Commissioner, that the time has arrived when the measures he has suggested should be "most forcibly pressed upon the Imperial Government;" and I beg your permission to express my deep-felt conviction, that on the decision of this Commission, and the course of action that may be taken by the Canadian Government at this juncture, depends the future weal or woe of my countrymen in the British North-West possessions.

Mr. WILLIAM MACD. DAWSON *called in, and examined.*

I am the head of the Woods and Forests Branch of the Crown Land Department, and reside in Toronto.

I have never had any difficulty or quarrel with any one connected with the Hudson's Bay Company.

Have you particularly studied the titles under which the Hudson's Bay Company claim certain rights of soil, jurisdiction, and trade on this continent?

I have made this subject a particular object of study for many years, and have omitted no opportunity of acquiring information upon it; and although with more time than I could devote to it, and a more extended research, much additional information could be obtained, I believe that it would only tend to fill up details, and strengthen and confirm the results of the investigation I have already made.

Will you state to the Committee the result of your investigation?

The result of my investigation has been to demonstrate that in the Red River and Saskatchewan countries the Hudson's Bay Company have no right or title whatever, except what they have in common with other British subjects. Wherever they have any possession or occupancy, then they are simply squatters, the same as they are at Fort William, Lacloche, Lake Nipissing, or any of their other posts in Canada. No right

The governmental attributes they claim in that country are a fiction, and their exercise a palpable infraction of law.

I am no enemy to the Hudson's Bay Company, nor to any individual connected with it; and, I think, that there are at the present day extenuating circumstances to justify a great degree of forbearance towards them when their position comes to be dealt with either judicially or legislatively.

Illegal as it undoubtedly is, their present position is a sort of moral necessity with them. The first attempt of the Company, under Lord Selkirk's régime, to assume that position, was no doubt a monstrous usurpation, but it was defeated, though not till it had caused much bloodshed.

The Hudson's Bay Company and the Canadian Traders (North-West Company) afterwards amalgamated; and then, in pursuance of a policy most dexterously planned and executed, carried the trade away back into the interior, from the very shores of the lakes and rivers adjoining the settlements of Canada, and took it round by Hudson's Bay, to keep it out of view, to lessen the chances of a new opposition springing up.

They also gave out that it was their country (a fiction which

the license of exclusive trade for the Indian territories helped them to maintain); and they industriously published and circulated maps of it as such, which being copied into other maps and geographical works, the delusion became very general indeed.

When therefore, by this means, they had been left alone in those remote territories, without any intercourse with the organized tribunals or legitimate government of the country, (an intercourse which their monetary interests forbade them to seek,) it became a sort of necessity for them to establish a jurisdiction of their own.

It is true that they have gone to an extreme in this matter, which it would be difficult to excuse; but in such a case it is hard to take the first step, and be able to stop afterwards, more particularly when it consists in a total antagonism to existing law, or rather in assuming to themselves the functions of constituted authorities, where they legally possess only the rights of subjects and traders in common with the rest of the community.

But having once assumed and exercised those powers, and thereby made themselves amenable to the laws of the country, it is not to be wondered at that they have sought to justify it on the pretence that they possess the powers of government, which (doubtful at best even in those localities where they have some show of title) are without the least foundation on the banks of the Saskatchewan or Red Rivers.

In thus palliating the tenacity with which the Hudson's Bay Company cling to their fictitious title, I may be accused of being their apologist, but I am so only to the extent that, at the present day, their position has become a necessity; for, in so far as they have affected the rights of others, they have rendered themselves liable to the most serious consequences, should any party aggrieved see fit to appeal to the legal tribunals of the country; and it is but natural to suppose that they will endeavour to maintain the fiction long enough to enable them to effect a compromise.

Any number of individuals might associate themselves together for mining, hunting, or agriculture, say at Lake Nipissing or on Anticosti; and finding no legal tribunals there

or within their reach, they might establish a jurisdiction of their own, and execute their judgments. Circumstances may be imagined in which such a course, if resulting from the necessity of their position, might be morally right, though legally wrong; but nothing short of an Act of Indemnity could save them from the consequences, if pursued by those whose rights they had affected.

Such is exactly the position of the Hudson's Bay Company at the Red River, and, for the judgments they have rendered there, they are undoubtedly amenable to be judged by the legally constituted tribunals of this country; and those whom they have condemned or punished, or whose rights or interests they have adjudicated upon, can certainly obtain redress.

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And to this extent I would be their advocate, that, in so far as their assumption of jurisdiction has been in a manner a necessity resulting from the acts of former years, the Legislature should pass an Act of Indemnity to shield them from the consequences; the circumstances to be first investigated, however, by a Commission appointed by the Government for that purpose.

It may seem presumptuous in me to put the case so strongly in opposition to the general view of their territorial rights; but it is not a matter of opinion, it is a matter of fact. I could have no hesitation to state as a fact, that the county of York and the district of Montréal are not portions of the Company's territory, but the fact that the Red River and Saskatchewan are not in their territory is just as strong and absolute; and the circumstance that the one happens to be better known than the other does not alter the fact in the one case more than the other.

But the generally-received view of the subject is but of recent date, and simply the result of the circumstance, that no one in particular has taken any interest in denying it. It is only since the Union of the Companies in 1821 that there has been no obstacle to the continuous imposition of the Company's views upon the public, till they ultimately became rather unopposed than accepted; and, in denying it now, I am simply in accord with the highest authorities, whose province it has been to treat the question judicially.

It must be remembered that the Company did not attempt



to even enter upon these countries until 104 years after the date of their charter, viz., in 1774; and that they then did so, not as taking possession under their charter, but only to participate in a traffic then in the hands of British subjects trading from Canada in virtue of the conquest or cession of the country, through which, and not in virtue of their charter, the Company also had, of course, a right to trade as British subjects.

A rivalry having been kept up for many years in the trade, and the absurd construction of the charter now contended for having been invented, the attempt to exercise the powers claimed was made by the Company, through Lord Selkirk, first theoretically about the years 1811-12, and practically about 1814, by warning off the North-West Company, and obstructing the channel of their trade; and the result was a great deal of strife and bloodshed. In the course of this strife various appeals were made to the Provincial and Imperial Governments, and to the legal tribunals, and in every instance the decisions were constructively or directly adverse to the pretensions of the Hudson's Bay Company.

In a despatch to the Governor-General from Earl Bathurst, by order of His Royal Highness the Prince Regent, under date 6th February, 1817, I find the following instructions in relation to these events:—

"You will also require, under similar penalties, the restitution of all forts, buildings, or trading stations, with the property which they contain, which may have been seized or taken possession of by either party, to the party who originally established or constructed the same; and who were possessed of them previous to the recent disputes between the two Companies.

"You will also require the removal of any blockade or impediment by which any party may have attempted to prevent or interrupt the free passage of traders or others of His Majesty's subjects, or the natives of the country, with their merchandise, furs, provisions, and other effects, throughout the lakes, rivers, roads, and every other usual route or communication heretofore used for the purposes of the fur trade in the interior of North America; and the full and free permission for all persons to pursue their usual and accustomed trade without hindrance or molestation."

And in conclusion, this object is again peremptorily insisted on, viz., "the mutual restoration of all property captured during these disputes, and the freedom of trade and intercourse with the Indians, until the trials now pending can be brought to a judicial decision, and the great question at issue with respect to the rights of the two Companies shall be definitely settled."

The trials then pending, to which the above allusion has reference, were those instituted by Lord Selkirk against the partners and *employées* of the North-West Company, who had resisted the pretensions of the Hudson's Bay Company, and in consequence of which a battle was fought on the Frog Plains, at the Red River, in which some 20 of the Hudson's Bay people were killed, including the "Governor," as they styled their chief officer. These trials were for murder (some of the parties as principals and some accessories), for arson, robbery (stealing cannon), and other high misdemeanors, and were held in this city, then the town of York, in October, 1818, and resulted in the acquittal of all the parties on all the charges, though it was not denied that some of them had been in the battle, in which, however, they contended that they were in defence of their just rights.

These trials were held under the Canada Jurisdiction Act (43 Geo. III., c. 138), under a commission from Lower Canada; but the jurisdiction under that Act being questioned on the ground that the Frog Plains were in Upper Canada, and therefore not in the territories affected by that Act, the Court was so doubtful on the question of boundary, that the charge to the jury directed that, in case of finding the prisoners guilty, they should return a special verdict setting forth that "they could not see from any evidence before them what were the limits of Upper Canada."

The Attorney-General was unable to define these limits, but appealed to the Court to decide, as they were deducible from treaties, Acts of Parliament, and proclamations; &c., and the judgment of the Court was as above stated, the following passage occurring in the charge of the Chief Justice:—

"Mr. Attorney-General has put in evidence the latitude and longitude of the Frog Plains, but he does not put in

evidence whether this latitude and longitude be without or within the boundaries of Upper Canada, and I do not know whether from 90° to 100° or 150° from the western limit of Upper Canada."

In other words, the Court could not affirm that Upper Canada had any western limit on this side of the Pacific, and the Court was right; its westerly limit never had been assigned, and absolute evidence of the very nature which the Attorney-General (now Chief Justice) admitted would be proof upon the subject, existed so far as to prove that the province extended beyond the Lake of the Woods, without determining how far beyond; but it was not his duty to quote it, as he was prosecuting for a conviction as directed by a special commission from Lower Canada under a particular Act. An acquittal, however, rendered any special verdict unnecessary, and the question was not therefore further tried on these cases.

I must remark, however, that the question raised was solely whether the scene of the outrages at Red River was in Canada or the Indian territory, not whether it was in Canada or the Hudson's Bay Company's Territory. The latter alternative was not even entertained, having been almost entirely ignored on the trials as too manifestly absurd to make any legal fight upon at all.

In short, the case for the defence was based on a justification of resistance to the assumed authority of the Company, whose preposterous pretensions on the Red River with "governors, sheriffs, &c.," were treated with ridicule, though without detracting from the individuals, "Governor" Semple, who was killed, or his predecessor, M'Donell, who were worthy of the highest respect, though, like many others, imposed upon in the first instance by the specious pretences of the Company and Lord Selkirk.

Other actions and trials were held in Upper Canada, all of which, so far as I have been able to trace them, were adverse to the Hudson's Bay Company.

In February, 1819, in this city, William Smith, under-sheriff of the then Western District, obtained £500 damages against Lord Selkirk, then at the head of a large armed force, for resisting him in the execution of a writ of restitution,

founded upon a verdict obtained at Sandwich in 1816, and resistance also to a warrant for his Lordship's arrest.

At the same time, Daniel M'Kenzie obtained £1,500 damages for forcible detention, &c., by Lord Selkirk.

Criminal proceedings were also instituted, and a bill of indictment found against Lord Selkirk himself and the leaders of his party, for their illegal transactions in the Western territories; but I have not yet been able to trace up the result of this case, and no doubt much valuable information could be obtained by some one having more time than I have had to hunt up the records of these proceedings.

The latter trials, I believe, were in the ordinary course of procedure of Upper Canada, and not under the special Act for the Indian territories, &c., and the proceedings taken extended to transactions far down the waters descending to Lake Winnipeg.

Having shown the views of the judicial authorities of Upper Canada, I would advert for a moment to those of Lower Canada.

In May, 1818, Charles de Reimhard was tried at Quebec for murder committed in 1816 on the river Winnipeg, under the Canada Jurisdiction Act. Exception was taken to the jurisdiction of the Court, on the ground that the locality was not in the Indian territory, but within the limits of Upper Canada.

The Court overruled the objection, and decided that the Westerly boundary of Upper Canada was a line on the meridian of  $88^{\circ} 50'$  west from London.

I hardly think that any surveyor, geographer, or delineator of boundaries of any experience or scientific attainments would concur in the decision.

The question would be too long, however, to discuss now, and I shall only say that it was based on the assumption that, of the territory previously belonging to and acquired from France in 1763, only a part was organized as the province of Quebec, and that the two provinces of Canada, after the division, were confined to the same limits provided for the former by the Act of 1774. The Court, the Attorney-General, and the counsel for the prisoner alike concurred in the fact that the river Winnipeg was a part of the country previously belonging to

France, and ceded by the Treaty of Paris in 1763, and at no stage of the proceedings was the question of its being a part of the Hudson's Bay Company's territories for one moment entertained.

De Reimhard was found guilty, and sentenced to death; but although the Court refused to reconsider its decision, yet the reasoning of Messrs. Stuart and Valliere was so clear, that the judges deemed it expedient that the execution should be delayed till the decision of the Imperial Government could be had upon the question of jurisdiction.

The actual reasons given by the Imperial Government I have not been able to get at; but I know that when the decision was given the prisoner was released, and that the question submitted was that of jurisdiction, as above stated.

I must here remark, that notwithstanding the able and convincing arguments of Messrs. Stuart and Valliere, they omitted one point, which the Court would have been obliged, by its own admissions, to have accepted as conclusive against the judgment it gave.

The decision given was based upon the construction put by the Court upon the actual wording of an Act of Parliament, but it was admitted that the country to the west only "came into possession of the British Crown at the Treaty of Paris in 1763," and it was admitted that the King could, by an act of sovereign authority, "have placed that country under the Government of Canada;" it was merely denied that he did do so, not asserted that he could not do it. The counsel for the prisoner did not chance to come upon the commissions of the Governors, or they would have found that there had been such an "act of sovereign authority," distinctly describing that country to the west of the Lake of the Woods as attached to the Government of Canada, and the Court by its own admission must have been bound by it.

I may also remark, that the decision of the Court of Québec would have made the westerly limit of Upper Canada a long way east of the United States boundary, leaving out the shores of the lake (where we are now selling mining lands) and its westerly tributaries, and has, therefore, nothing in common with the boundary designated for us by the Hudson's Bay

Company, viz., the watershed of the St. Lawrence, and for which there is no earthly authority except themselves.

On this head, I must advert to one other authority, which is of the highest importance at this moment, when troops are about to be sent to the Red River, and who, if they carry with them the erroneous views which, of late years, have been with some success imposed upon the public by the assiduous promulgation of the Company, may, unfortunately, be placed in a position of antagonism to the civil power.

There were, indeed, some troops there not many years ago, and no such evil as might be apprehended now resulted; but the circumstances are changed; the scenes of an earlier period may come back if the attempt be made, wholly unsustained by law, to repress a legal right. If such should be the case, it would be unfortunate if Her Majesty's soldiers were found on the wrong side, acting against law; for the subject is now being so well discussed, that the people will know their rights, and will appeal to the legal tribunals and the civil powers of the State to sustain them. Better that military rule prevailed entirely, for then the officers would know their duties and their responsibilities. If they go under the impression that they are to be subject to the supposed civil officers of a self-constituted government, which has no legal existence, they may find themselves called upon to enforce behests which are not law, which are infractions of law; they may be called upon to subdue resistance to illegal acts, to which resistance is a duty and a right; and if, for acting on these behests they are ultimately brought before the courts of justice, they will find that they have acted under those whose powers will be treated as a nullity, whose civil offices will be held a mockery. This has been before, this may be so again, if due precaution be not observed; and I state it thus strongly now, because the more it is known, the less will be the chance of its recurrence.

If proper civil officers, magistrates, &c., were appointed by His Excellency the Governor-General for the Red River country, to whom alone the troops could look in case of emergency, as vested with authority, the difficulty and danger would be obviated; for without this there is no authority, in that country, by, through, or in any person connected with the

*Troops  
cannot  
act  
by authority  
of the  
Hudson Bay  
Company*

Hudson's Bay Company, as such, to which any officer or soldier in Her Majesty's service would be justified in yielding obedience.

To revert to the authority upon this subject I was about to quote, it will be remembered that, during the troubles which formerly took place, upon special representations made by Lord Selkirk that he was not safe in proceeding to the Red River settlement, some troops were sent with him, and the instructions given to them by order of His Excellency Sir Gordon Drummond are so clear and decisive, that no one can mistake their purport;—they were as follows:—

ADJUTANT-GENERAL'S OFFICE, QUEBEC,

17th April, 1816.

SIR,

The Earl of Selkirk having represented to the Administrator-in-Chief and Commanding-General of the forces that he has reasons to apprehend that attempts may be made upon his life in the course of the journey through the Indian country which he is about to undertake, His Excellency has, in consequence, been pleased to grant His Lordship a military guard for his personal protection against assassination. This party, which is to consist of two serjeants and 12 rank and file of the regiment De Meuron, is placed under your command, and I am commanded to convey to you the positive prohibition of His Excellency the Lieutenant-General commanding the forces, against the employment of this force for any other purpose than the personal protection of the Earl of Selkirk. You are particularly ordered not to engage yourself, or the party under your command, in any disputes which may occur betwixt the Earl of Selkirk and his *engagees* and *employées* and those of the North-West Company, or to take any part or share in any affray which may arise out of such disputes.

By such an interference on your part you would not only be disobeying your instructions, but acting in direct opposition to the wishes and intentions of the Government to the countenance, support, and protection of which each party has an equal claim. The Earl of Selkirk has engaged to furnish the party under your command with provisions during the time of your absence. You are on no occasion to separate from your

party, but to return with His Lordship, and on no account to suffer yourself, or any of your detachment, to be left at any settlement or post in the Indian country.

These instructions are to be clearly explained to the non-commissioned officers and men in your party.

I have, &c.,

Lieutenant GRAFFEURED,

(Signed)

J. HARVEY,

De Meuron's Regiment.

Lieut.-Col. D. A. G.

This is another emphatic declaration that the Government held the Hudson's Bay Company and the Canadian traders as possessed of equal rights, and that Her Majesty's troops at least were not to be used against the one to sustain the ridiculous pretensions of the other. Notwithstanding the stringency of these instructions, however, Lord Selkirk having a number of the disbanded De Meuron soldiers in his pay, it was difficult for the regulars to resist being led along with them to enter upon the North-West Company's property, &c. which involved them in legal difficulties after their return, from which it was not easy to extricate them.

I have confined myself in the foregoing remarks to the Red River and Saskatchewan countries, which were the principal scenes of the disputes which have heretofore called for action; and it will be seen that the imperial authorities, the provincial authorities, the military authorities, and the courts of justice, have all ignored the pretensions of the Hudson's Bay Company as regards these countries.

The great danger in renewing the Company's lease of the Indian territories, however, would be, that they might drop the pretence that the Red River, &c., is covered by their charter, and claim it as part of the Indian territories; a plea which, though erroneous, might be more sustained by technicalities, inasmuch as some of the remote parts of Canada, perfectly understood to be such, have, nevertheless, sometimes been designated the Indian countries in official documents. I have not referred to the validity of the Company's charter, either to deny or admit it; I merely deny that it has effect on the countries I have spoken of.

In support of this, I have quoted more recent authorities; but for a more particular investigation of their title, its extent



and origin; I beg to refer to a report which I wrote for the Commissioner of Crown Lands some months ago, the substance of which appears in the shape of a memorandum in the Return to an Address for certain papers connected with the Hudson's Bay question. It embodies the view I have entertained for many years, and is the result of much careful study.

Q. Have you made the early and present boundaries of Canada a particular subject of study? If so, state the result.

A. The early boundaries of Canada, or New France, included, I think, the whole of Hudson's Bay; for I find all that part of the country granted to a trading company by the King of France, in a charter somewhat similar, but 43 years earlier than the charter of the Hudson's Bay Company.

I find the country also confirmed by treaty to France, at St. Germans-en-Laye, 38 years before the last-named charter, but the investigation of this part of the subject is fully stated in the memorandum referred to.

I find that, from the Treaty of Utrecht, in 1713, to the Treaty of Paris, in 1763, the boundaries between the French possessions in Canada and the British possessions in Hudson's Bay were not defined. The lines claimed by both parties are distinctly laid down on the map lately prepared by Mr. Devine, in the Crown Lands Department.

Both, it will be seen, give the Red River and Saskatchewan to France; and the line laid down from British authorities is from those least favourable to French pretensions of that period.

All the country south of that line is, of course, what was ceded by France as Canada, in 1763, and was in her undisputed possession up to that time. There was never any westerly limit assigned to Canada either before or since the Treaty of Paris. The French claimed to the Pacific, though they never explored the whole way across, which, however, the Canadians (British and French) were the first to effect after the treaty.

Some British authorities of a more recent date claimed under the Treaty of Utrecht from Hudson's Bay to latitude 49° as having been so determined by Commissioners, but no such decision was ever given. I have searched every book I could find upon the subject, and have communicated with those who

have searched the best libraries of France and England with the same object, but no authority can be found for such a boundary.

*Petition from the Board of Trade of the City of Toronto to the Legislative Council, presented 20th April, 1857.*

To the Honourable the Legislative Council of the Province of Canada, in Parliament assembled.

The Petition of the Board of Trade of the City of Toronto,  
HUMBLY SHEWETH,

That an association of traders, under the title of "The Honourable Hudson's Bay Company," during a long period of time, have claimed and exercised a sovereignty in the soil, together with the right of exclusive trade over a large portion of the province of Canada, and that the exercise of such claim is subversive to all those rights and privileges which were guaranteed to the inhabitants of Canada by Royal proclamation immediately after the conquest of the country, and subsequently secured to them by those Acts of the British Parliament which gave to Canada a constitutional government.

Your petitioners further show, that up to the year 1763, when by the Treaty of Fontainebleau Canada was ceded to the British Crown, the whole region of country extending westward to the "Pacific Ocean," and northward to the shore of the "Hudson's Bay," had continued in the undisputed possession of the Crown of France for a period of two centuries, and was known as La Nouvelle France, or Canada ;

That during the half century succeeding the treaty above alluded to, an extensive trade and traffic was continued to be carried on throughout the country, described by commercial companies and traders who had established themselves there under authority of the Crown of France, and that a trade was likewise, and at the same period, carried on by other traders of British origin, who had entered into that country and formed establishments there, consequent upon its cession to the British Crown ;

That such trade and traffic was carried on freely and independent of any restrictions upon commercial freedom, either as originally enacted by the Crown of France, or promulgated by that of Great Britain ;

That in 1783 nearly all the aforesaid traders and companies united and formed an association, under the name of the "North-West Company of Montreal," which said Company made many important discoveries, and extended their establishments throughout the interior of North America, and to within the Arctic Circle and to the Pacific Ocean ;

That in the year 1821 the said North-West Company united with the so-called Hudson's Bay Company, a Company to all intents and purposes foreign to the interests of Canada, and owing no responsibility to her ;

That under the name of the Honourable Hudson's Bay Company they advance claims and assume rights in virtue of an old charter of Charles II., granted in 1669, that bearing a date nearly 100 years before that this country had ceased to be an appendage to the Crown of France, it pertained to that of Great Britain ;

That under such pretended authority said Hudson's Bay Company assume a power to grant away and sell the land of the Crown, acquired by conquest and ceded to it by the Treaty of 1673 ;

That said Company have also assumed the power to enact tariffs, collect customs dues, and levy taxes against British subjects, and have enforced unjust and arbitrary laws, in defiance of every principle of right and justice.

Your petitioners more especially pray the attention of your Honourable House to that region of country designated as the Chartered Territory, over which said Company exercise a sovereignty in the soil as well as a monopoly in the trade, and which said Company claim as a right that insures to them *in perpetuo*, in contradistinction to that portion of country over which they claim an exclusive right of trade but for a limited period only.

Whilst your petitioners believe that this latter claim is founded upon a legal right, they humbly submit that a renewal of such license of exclusive trade is injurious to the interests of the country so monopolised, and in contravention of the rights of the inhabitants of Canada.

Your petitioners therefore humbly pray that your Honourable House will take into consideration the subject of how far the assumption of power on the part of the Hudson's Bay Company

interferes with Canadian rights, and as to the necessity of more particularly declaring the boundaries of Canada on the westward and on the northward, and of extending throughout the protection of Canadian laws, and the benefits of Canadian institutions.

And your petitioners, as in duty bound, will ever pray.

(Signed)

{ THOMAS CLARKSON, *President*.  
{ CHARLES ROBERTSON, *Secretary*.

*Petition of Inhabitants and Natives of the Settlement situated on the Red River, in the Assiniboine Country, British North America.*

To the Honourable the Legislative Assembly of the Province of Canada, in Parliament assembled.

The Petition of the undersigned Inhabitants and Natives of the Settlement situated on the Red River, in the Assiniboine Country, British North America,

HUMBLY SHEWETH,

That many years ago a body of British emigrants were induced to settle in this country under very flattering promises made to them by the late Earl of Selkirk, and under certain contracts.

All those promises and contracts which had led them to hope that, protected by British laws, they would enjoy the fruits of their labour, have been evaded.

On the coalition of the rival companies, many of us, Europeans and Canadians, settled with our families around this nucleus of civilization in the wilderness, in full expectation that none would interrupt our enjoyment of those privileges which we believe to be ours by birthright, and which are secured to all Her Majesty's subjects in any other British colony.

We have paid large sums of money to the Hudson's Bay Company for land, yet we cannot obtain deeds for the same. The Company's agents have made several attempts to force upon us deeds which would reduce ourselves and our posterity to the most abject slavery under that body. As evidence of this, we append a copy of such deeds as have been offered to us for signature.

Under what we believe to be a fictitious charter, but which

the Company's agents have maintained to be the fundamental law of "Rupert's Land," we have been prevented the receiving in exchange the peltries of our country for any of the products of our labour, and have been forbidden giving peltries in exchange for any of the imported necessities of life, under the penalty of being imprisoned, and of having our property confiscated; we have been forbidden to take peltries in exchange even for food supplied to famishing Indians.

The Hudson's Bay Company's clerks, with an armed police, have entered into settlers' houses in quest of furs, and confiscated all they found. One poor settler, after having his goods seized, had his house burnt to the ground, and afterwards was conveyed prisoner to York Factory.

The Company's first legal adviser in this colony has declared our navigating the lakes and rivers between this colony and Hudson's Bay with any articles of our produce to be illegal. The same authority has declared our selling of English goods in this colony to be illegal.

On our annual commercial journeys into Minnesota, we have been pursued like felons by armed constables, who searched our property, even by breaking open our trunks: all furs found were confiscated.

This interference with those of aboriginal descent had been carried to such extent as to endanger the peace of the settlement.

Thus we, the inhabitants of this land, have been and are constrained to behold the valuable commercial productions of our country exported for the exclusive profit of a company of traders who are strangers to ourselves and to our country.

We are by necessity compelled to use many articles of their importation, for which we pay from one hundred to four hundred per cent. on prime cost, while we are prohibited exporting those productions of our own country and industry which we could exchange for the necessities of life.

This country is governed and legislated for by two distinct Legislative Councils, in constituting of which we have no voice, the members of the highest holding their office of councillors by virtue of rank in the Company's service. This body passes laws affecting our interest; as, for instance, in

1845 it decreed that 20 per cent. duty would be levied on the imports of all who were suspected of trading in furs; this duty to be paid at York Factory. Again, in 1854, the same body passed a resolution imposing 12½ per cent. on all the goods landed for the colony at York Factory.

The Local Legislature consists of the Governor, who is also judge, and who holds his appointments from the Company: they are appointed by the same body, and are, with one or two exceptions, to a greater or less extent dependent on that body. This Council imposes taxes, creates offences, and punishes the same by fines and imprisonments, (*i. e.*) the Governor and Council make the laws, judge the laws, and execute their own sentence. We have no voice in their selection, neither have we any constitutional means of controlling their action.

Our lands are fertile, and easily cultivated, but the exclusive system of Hudson's Bay Company effectually prohibits the tiller of the soil, as well as the adventurer in any other industrial pursuit, from devoting his energies to those labours which, while producing to the individual prosperity and wealth, contribute to the general advantage of the settlement at large.

Under this system our energies are paralysed, and discontent is increasing to such a degree, that events fatal to British interest, and particularly to the interest of Canada, and even to civilization and humanity, may soon take place.

Our country is bordering on Minnesota territory; a trade for some years has been carried on between us. We are there met by very high duties on all articles which we import into that territory, the benefits of the Reciprocity Treaty not being extended to us. Notwithstanding this, the trade has gone on increasing, and will continue to do so; we have already great cause to envy those laws and those commercial advantages which we see enjoyed by our neighbours, and which, wherever they exist, are productive of prosperity and wealth.

As British subjects, we desire that the same liberty and freedom of commerce, as well as security of property, may be granted to us as is enjoyed in all other possessions of the British Crown, which liberty is become essentially necessary to our prosperity, and to the tranquillity of this colony.

We believe that the colony in which we live is a portion of

that territory which became attached to the Crown of England by the Treaty of 1763, and that the dominion heretofore exercised by the Hudson's Bay Company is a usurpation antagonistic to civilization and to the best interests of the Canadian people, whose laws, being extended to us, will guarantee the enjoyment of those rights and liberties which would leave us nothing to envy in the institutions of the neighbouring territory.

When we contemplate the mighty tide of immigration which has flowed towards the north these six years past, and has already filled the valley of the Upper Mississippi with settlers, and which will this year flow over the height of land and fill up the valley of the Red River, is there no danger of being carried away by that flood, and that we may thereby lose our nationality? We love the British name! We are proud of that glorious fabric, the British Constitution, raised by the wisdom, cemented and hallowed by the blood, of our forefathers.

We have represented our grievances to the Imperial Government, but, through the chicanery of the Company and its false representations, we have not been heard, and much less have our grievances been redressed. It would seem, therefore, that we have no other choice than the Canadian plough and printing press, or the American rifle and Fugitive Slave law.

We, therefore, as dutiful and loyal subjects of the British Crown, humbly pray that your Honourable House will take into your immediate consideration the subject of this our petition, and that such measures may be devised and adopted as will extend to us the protection of the Canadian Government, laws, and institutions, and make us equal participators in those rights and liberties enjoyed by British subjects in whatever part of the world they reside.

Wherefore, your petitioners will ever pray.

(Signed)

*Roderick Kennedy,*

and 574 others.

So overwhelming was the evidence adduced before the Committee in favour of the claims of Canada, that Mr. Edward Ellice, in his evidence,

made the following statement on behalf of the Hudson's Bay Company:—

But I take this question of boundary to be a question of no importance at all. If the province of Canada requires any part of this territory, or the whole of it, for purposes of settlement, it ought not to be permitted for one moment to remain in the hands of the Hudson's Bay Company; and, at the same time, less money than would be spent in a litigation upon the subject would be sufficient to indemnify the Hudson's Bay Company for any claim which they could have in giving up any disputed part of their territory. We attach very much importance to these questions, which are, in fact, of no importance in themselves. It would be much more, for instance, for the interest of the Hudson's Bay Company to be upon a cordial and good understanding with the Government of Canada, than to have any disputed question of right with respect to a certain quantity of land which can be of no use to the Hudson's Bay Company, and which may be of use to the people of Canada.

The Committee, therefore, relying on the good faith of the Company, made the following report to the House:—

1. The near approach of the period when the license of exclusive trade granted in 1838 for 21 years to the Hudson's Bay Company over that North-Western portion of British America which goes by the name of the Indian Territory, must expire, would alone make it necessary that the condition of the whole of the vast regions which are under the administration of the Company should be carefully considered; but there are other circumstances which, in the opinion of your Committee, would have rendered such a course the duty of the Parliament and Government of this country.

2. Among these, your Committee would specially enumerate, —the growing desire of our Canadian fellow-subjects that the means of extension and regular settlement should be afforded to them over a portion of this territory; the necessity of providing suitably for the administration of the affairs of Vancouver's



Island, and the present condition of the settlement which has been formed on the Red River.

3. Your Committee have received much valuable evidence on these and other subjects connected with the inquiry which has been entrusted to them, and especially have had the advantage of hearing the statements of Chief Justice Draper, who was commissioned by the Government of Canada to watch this inquiry. In addition to this, your Committee have received the evidence taken before a Committee of the Legislative Assembly, appointed to investigate this subject, containing much valuable information in reference to the interests and feelings of that important colony, which are entitled to the greatest weight on this occasion.

7. Among the various objects of imperial policy which it is important to attain, your Committee consider that it is essential to meet the just and reasonable wishes of Canada to be enabled to annex to her territory such portion of the land in her neighbourhood as may be available to her for the purposes of settlement, with which lands she is willing to open and maintain communication, and for which she will provide the means of local administration. Your Committee apprehend that the districts on the Red River and the Saskatchewan are among those likely to be desired for early occupation. It is of great importance that the peace and good order of those districts should be effectually secured. Your Committee trust that there will be no difficulty in effecting arrangements as between Her Majesty's Government and the Hudson's Bay Company by which these districts may be ceded to Canada on equitable principles, and within the districts thus annexed to her the authority of the Hudson's Bay Company would, of course, entirely cease.

8. Your Committee think it best to content themselves with indicating the outlines of such a scheme, leaving it to Her Majesty's Government to consider its details more maturely before the Act of Parliament is prepared, which will probably be necessary to carry it into effect.

In case, however, Canada should not be willing at a very early period to undertake the government of the Red River district, it may be proper to consider whether some temporary provision for its administration may not be advisable.

Following out the recommendations of the report of the Committee, Her Majesty's Government addressed a letter to the Hudson's Bay Company on the 20th January, 1858, asking, amongst other things, if the Company would consent to relinquish the Red River and Saskatchewan country for the purpose of being colonized and annexed to Canada, to which the Governor of the Company replied as follows:—

In communicating this assent on the part of the Hudson's Bay Company, it is, however, right to notice that the territories mentioned as those that may probably be first desired by the Government of Canada, namely, the Red River and Saskatchewan districts, are not only valuable to the Hudson's Bay Company as stations for carrying on the fur trade, but that they are also of peculiar value to the Company as being the only source from which the Company's annual stock of provisions is drawn, particularly the staple article of pemican, a regular supply of which is absolutely necessary to enable the officers of the Company to transport their goods to the numerous inland and distant stations, and to feed and maintain the people, both European and Indian, stationed thereat. It is proper, therefore, that I should draw your attention to the fact, that the ultimate loss of these districts will most probably involve the Hudson's Bay Company in very serious difficulties, and cause a great increase of expense in conducting their trade. The Company assume that the Canadian Government will be responsible for the preservation of peace and the maintenance of law and order in all the territories ceded to them, and that they will prevent lawless and dishonest adventurers from infringing from thence the rights of the Company over the remaining portions of their territories.

It is important to compare the foregoing statements with that of the evidence of Mr. Ellice before the Committee of the House of Commons. On the

22nd of the same month, the Colonial Minister (Mr. Labouchere) addressed a despatch to the Governor-General of Canada, asking the Government of Canada to consent to an arrangement which would have prevented them from raising the question of the validity of the Company's charter, and to which the following were sent by way of reply :—

GOVERNMENT HOUSE, TORONTO, CANADA WEST,  
August 16th, 1858.

SIR,

I have the honour to enclose a joint Address from the Legislative Council and Assembly of Canada to Her Majesty the Queen on the subject of the territory of the Hudson's Bay Company, which I request may be laid at the foot of the throne.

I have, &c.,  
(Signed) EDMUND HEAD.

The Right Hon. Sir E. B. LYTON, Bart.

&c.

&c.

&c.

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Enclosure in No. 1.

To the Queen's most Excellent Majesty.

Most Gracious Sovereign,

We, Your Majesty's most dutiful and loyal subjects, the Legislative Council and Commons of Canada in Provincial Parliament assembled, humbly approach Your Majesty for the purpose of representing—

THAT the approaching termination of the License of Trade granted by Your Majesty's Imperial Government to the Hudson's Bay Company over the Indian territories, a portion of which, in our humble opinion, Canada has a right to claim as forming part of her territory, renders imperative the adoption of such measures as may be necessary to give effect to the rights of the province, and presents a favourable opportunity for obtaining a final decision on the validity of the charter of

the Company, and the boundary of Canada on the north and west.

That Canada, whose rights stand affected by that charter, to which she was not a party, and the validity of which has been questioned for more than a century and a-half, has, in our humble opinion, a right to request from Your Majesty's Imperial Government a decision of this question, with a view of putting an end to discussions and questions of conflicting rights, prejudicial as well to Your Majesty's Imperial Government as to Canada, and which while unsettled must prevent the colonization of the country.

That the settlement of the boundary line is immediately required, and that therefore we humbly pray Your Majesty that the subject thereof may be forthwith submitted for the opinion of the Judicial Committee of Your Majesty's Privy Council, but without restriction as to any question Canada may deem it proper to present on the validity of the said charter or for the maintenance of her rights.

That any renewal of the license to trade over the Indian territories should, in our humble opinion, be granted only upon the conditions that such portions thereof, or of the other territories claimed by the Company (even if their charter be held valid), as may be required from time to time to be set apart by Canada or by Your Majesty's Government into settlements for colonization, should, as so required, be withdrawn from under any such license and the jurisdiction and control of the said Company, and that Your Majesty's Government, or the Governor-General in Council, should be permitted to grant licenses to trade in any portions of the said territories while held by or in occupation of the said Company, upon such conditions for the observance of law and the preservation of the peace, for the prohibition or restriction of the sale of ardent spirits, for the protection of Indian tribes from injury or imposition, and with such other provisions as to Your Majesty's Government or to His Excellency in Council may seem advisable.

That, in our humble opinion, Canada should not be called upon to compensate the said Company for any portion of such territory from which they may withdraw or be compelled to

Canada  
will  
not

Confidential

withdraw, but that the said Company should be allowed to retain and dispose of any portion of the lands thereof on which they have built or improved.

All which we humbly pray Your Majesty to take into Your Majesty's gracious and favourable consideration.

(Signed) N. F. BELLEAU,  
Speaker, L.C.

(Signed) HENRY SMITH,  
Speaker, L.A.

Legislative Council, Toronto,

14th August, 1858.

Legislative Assembly Hall, Toronto,

13th August, 1858.

*Copy of a Despatch from the Right Honourable Sir EDMUND HEAD, Bart., to the Right Honourable Sir EDWARD BULWER LYTTON, Bart.*

(No. 117.)

QUEBEC, September 9th, 1858.

SIR,

(Received 22nd September, 1858.)

I have the honour to enclose a copy of a minute of the Executive Council of Canada, approved by myself this day, respecting the joint Address of both Houses of the Provincial Legislature on the subject of the Hudson's Bay territory, and the questions connected therewith.

I fully concur with my Council in the importance of this matter, and would press its consideration on Her Majesty's Government.

I have, &c.,

(Signed) EDMUND HEAD.

The Right Hon. Sir E. B. LYTTON, Bart.,

&c.

&c.

&c.

Enclosure in No. 2.

*Copy of a Report of a Committee of the Honourable the Executive Council, dated the 4th September, 1858, approved by His Excellency the Governor-General in Council on the 9th September, 1858.*

The Committee of Council respectfully recommend that the

Resolutions passed by the Legislative Council and the Legislative Assembly, and the joint Address thereon of both Houses, on the subject of the Hudson's Bay territory, be urged upon the attention of the Imperial Government by such members of the Executive Council as may be in London during this present autumn, and that, at the same time, the importance of opening a direct line of communication by railway, or otherwise, from Canada, through the Red River and Saskatchewan territories, to Fraser's River and Vancouver's Island, be brought by them under the notice of the Imperial authorities.

(A true copy.)

(Signed) EDMUND HEAD.

The two following letters sufficiently indicate the policy of Lord Derby's Administration on this question:—

DOWNING STREET,

3rd November, 1858.

SIR,

I am directed by Secretary Sir E. B. Lytton to acknowledge the receipt of your letter of the 12th October.

Sir E. B. Lytton will not conceal the disappointment and regret with which he has received that communication, containing, if he understands its tenor correctly, a distinct refusal on the part of the Hudson's Bay Company to entertain any proposal with a view to adjusting the conflicting claims of Great Britain, of Canada, and of the Company, or to join with Her Majesty's Government in affording reasonable facilities for the settlement of questions in which imperial no less than colonial interests are involved.

It is Sir E. B. Lytton's anxious desire to come to some equitable and conciliatory arrangement by which all legitimate claims of the Hudson's Bay Company should be fairly considered, in reference to the territories or privileges they may be required to surrender; but if the decision, as conveyed in your letter, be regarded as final, all power to facilitate such an arrangement is withdrawn from his hands. By that decision Sir E. B. Lytton

sees with regret that a process of temperate and amicable inquiry and adjudication must be exchanged for a legal conflict, where all parties concerned will be brought into antagonistic and even hostile relations, and where it is manifest that the terms of compensation, compromise, and mutual convenience, which Her Majesty's Government would, under other circumstances, have been able to negotiate, must become far more difficult of attainment, if not actually unattainable.

Unsatisfactory as this result would be, Sir E. B. Lytton will not feel at liberty to decline it. He desires that, the Hudson's Bay Company should distinctly understand, that in his opinion the time for arriving at some authoritative definition of conflicting claims can no longer be postponed with safety or in justice to public interests, and that both Canada and the British Parliament might justly complain of further and unnecessary delay.

But before deciding finally upon the course to be pursued, he desires to place once more the question before the Hudson's Bay Company, with a sincere hope that on a fuller consideration they may see the expediency of modifying the determination which your letter announced.

Where on all sides interests so great and various are concerned, the wisest and most dignified course will be found, as Sir E. B. Lytton has on previous occasions pointed out, in an appeal to and a decision by the Judicial Committee of the Privy Council, with the concurrence alike of Canada and of the Hudson's Bay Company.

If the adoption of such a procedure be advantageous to the interests of all parties concerned, Sir Edward cannot but think it would be particularly for the interest of the Hudson's Bay Company. It would afford a tribunal pre-eminently fitted for the dispassionate consideration of the questions at issue; it would secure a decision which would probably be rather of the nature of an arbitration than of a judgment; and it would furnish a basis of negotiation on which reciprocal concession and the claims for compensation could be most successfully discussed.

In such an event Sir E. Lytton would be prepared to agree that the Company, if they succeed in maintaining the full rights

which they claim, should be indemnified against the costs, and that in any other result it should be understood that each party should bear its own expenses incident to the proceeding.

It is not for Sir E. Lytton to dictate to the Company the course which they should pursue, but I am to place distinctly before them his own intentions, and to leave them to decide.

If, on the one hand, the Company will meet Sir E. B. Lytton in finding the solution for a recognised difficulty, and will undertake to give all reasonable facilities for trying the validity of their disputed charter, they may be assured that they will meet with fair and liberal treatment, so far as Her Majesty's Government are concerned; but if, on the other hand, the Hudson's Bay Company persist in declining these terms, and can suggest no other practicable mode of agreement, Sir E. B. Lytton must hold himself acquitted of further responsibility to the interests of the Hudson's Bay Company, and will take the necessary steps for closing a controversy too long open, and for securing a definite decision which is due to the material development of British North America, and the requirements of an advancing civilization. It is only fair to add, that in such case the renewal of the exclusive license to trade in any part of the Indian territory, a renewal which could only be justified to Parliament as part of a general arrangement, adjusted on the principle of mutual concession, must become impossible.

I have, &c.,

(Signed) CARNARVON.

H. H. BERENS, Esq.

DOWNING STREET,

March 9th, 1869.

SIR,

I am directed by Secretary Sir E. B. Lytton to acknowledge your letter of the 8th February last, conveying, on the part of the Directors of the Hudson's Bay Company, their refusal to entertain the proposal which he had caused to be submitted to them, that Her Majesty should be advised to renew their license of exclusive trade with the Indians for a year.

Your letter, however, goes also at considerable length into a general statement of the present position of the Hudson's Bay Company, and defence of its conduct; and it becomes necessary



that Sir E. Lytton should enter upon that wider field of discussion, so far at least as may be required in order to justify the proceedings of Her Majesty's Government, before he replies to the more urgent part of your communication.

I am to state at the outset that Sir E. B. Lytton has received from the Governor of Canada a despatch, copy of which is enclosed, informing him that the local government require to consult the Legislature before deciding whether they will or will not undertake legal proceedings against the Company.

Sir E. Lytton, in regretting this delay, trusts that it will not be much prolonged. It is obviously due to Canada, on a matter in which she is so much concerned, to grant a reasonable time for a definite answer from the province; but as it is also desirable that the whole question regarding the charter territories should be settled in the course of the present session, it is Sir Edward's intention to inform the Governor-General of Canada that if the answer does not arrive by the 1st of May, Her Majesty's Government must feel themselves free to act.

To return to the general subject of your letter. The late Government, as your letter recites, were willing to test before the Judicial Committee, not the existence but the extent of the rights claimed under the charter. To this proposal the Company assented, but Canada declined to take part in an inquiry so limited. Whatever the original advantages of such a scheme may have been, the refusal of Canada to take part in the proceedings absolutely nullified it. A decision as to the limits of the charter, waiving the question as to its general validity, could, after that refusal, have bound no one except the mere parties to the proceeding, and would have been practically useless.

That refusal was only conveyed to Sir E. B. Lytton by despatch from Canada of the 16th August last. I am to notice this, only to show that Her Majesty's Government are chargeable with no unnecessary delay, having, notwithstanding the great importance of the subject, allowed as little time as possible to elapse without taking steps in the transaction.

Her Majesty's Government had now to consider what effect they could give to the 13th Resolution of the Committee of the House of Commons, in which, after specifying the principal

objects which they thought desirable, added, "How far the chartered rights claimed by the Company may prove an obstacle to their attainment they are not able, with any certainty, to say. If this difficulty is to be solved by amicable adjustment, such a course will be best promoted by the Government, after communication with the Company, as well as with the Government of Canada, rather than by detailed suggestions, emanating from this Committee."

With the best attention which they could give to this recommendation, Her Majesty's Government could not but see that the fairest and most direct method to accomplish it was to test, not the limits, but the validity of the charter itself, and they were and remain of opinion that this was best done by the consent of the three parties concerned.

Sir E. B. Lytton is well aware of the proposals made by the Company in Captain Shepherd's letter of 18th July, 1857; which are referred to (and a little extended as regards Saskatchewan) in yours which he is now answering. He must be permitted to say, that those proposals, though conceived with the sincerest desire to avoid litigation, by no means met the exigencies of the case.

Those proposals simply were (for the present purpose) to relinquish to Government "land fit for cultivation and the establishment of agricultural settlers," land as yet unascertained, and in all probability for the present but trifling in extent. Such an offer he could hardly have considered from the beginning sufficient; but it has become from subsequent causes (using the phrase without the slightest imputation on the motives of those who made it) illusory. The occupation of British Columbia has rendered more urgent than ever a policy even before that time recommended by the course of events, namely, to connect the two sides of British North America without the obstacle interposed by a proprietary jurisdiction between them. The difficulty of maintaining the jurisdiction of the Hudson's Bay Company over that intervening region becomes daily more evident, and the certainty also that if any attempt were made to maintain it, Her Majesty's Government would be called on to furnish the means. On the other hand, it appears to be the general opinion among lawyers that the

monopoly of trade claimed by the Company (under the charter) is invalid altogether; and that this monopoly could only be defended indirectly by pushing to extreme limits the consequence of a most invidious territorial grant, enabling the Company, as landlords, to exclude traders as trespassers. Sir E. B. Lytton cannot at all, therefore, agree with the Directors in referring the precarious position of the Company to the mere general unpopularity of monopolies. The weakness of their case arose, and still arises, from causes far more special and urgent; and it was obviously to be apprehended that Her Majesty's Government might, as protectors of the rights of her subjects generally throughout the empire, be called on to defend the claimants of assumed rights which had never been fairly submitted to investigation. It was quite impossible for them to be contented, in the interest of the public, with such offers as the Company had made, and to leave the general question unsettled; and to settle it without the assent of the Company was at least to be avoided until that assent had been formally invoked.

It was with this view that the letters addressed to you from this Department on the 3rd September and 3rd November last, to which you refer, were written. And it was with the same view that Sir Edward Lytton endeavoured, during the stay of the Canadian Ministers in England, last autumn, to induce them to bring Canada to a decision as to her part in the proceedings to be taken.

And Sir Edward Lytton feels it due to himself and his colleagues to disclaim most distinctly the supposition, expressed or implied, that the proposal conveyed to the Company in those letters was conceived in any spirit of hostility. On the contrary, it is his conviction now, as it was when those letters were written, that the Directors would consult the interest of their shareholders most effectively by causing it to be accepted. In this way all outstanding questions could be solved. Sir Edward Bulwer Lytton felt that if the decision of the Judicial Committee was in favour of the Company, and to the full extent claimed, then the Company would stand in a more advantageous position before the country, in claiming compensation for ascertained rights, if required to relinquish them for the public benefit.

than they possibly could, at present. If, on the other hand, the decision of that Committee were unfavourable to the Company, they would at all events still possess that claim to equitable consideration to which long usage, and the investment of extensive capital on the faith of supposed rights, might fairly entitle them; and although Her Majesty's Government could not, of course, give any distinct pledge in this latter event, no one acquainted with the general desire of Parliament to do justice to vested interests would be likely to apprehend serious danger.

In short, as the main and perhaps the sole practical difficulty in coming to the most amicable arrangements with the Company, appears to lie in ascertaining, not so much the amount of compensation, as the principle and mode on which it can be assessed with the approval of Parliament, so that difficulty appeared at once to be surmounted by ascertaining, without dispute, the nature of the right upon which claims for compensation may be fairly based.

The Directors, however, judged differently from Sir Edward Bulwer Lytton on this question. Sir Edward does not question their right to decide as they thought best for the interests of their Shareholders. He can only express his regret at a determination which retains the very difficulty in the way of speedy and amicable settlement which he had sought to remove. As the case now stands, should Canada resort to legal proceedings, negotiation is, of course, at an end until the result of such proceedings is known. Should she refuse to do so, it will then be for Sir Edward Bulwer Lytton to consider whether negotiation with the Company can be resumed, or whether, in the last resort, Her Majesty's Government must take the matter into their own hands, and proceed on their own account as they may be advised. But in any case he can with justice assure the Directors that his determination will be founded on a regard to public interests only, and without the slightest bias of hostility towards the Company.

It remains for me to convey Sir E. B. Lytton's reply to the immediately practical part of your letter, that referring to the renewal of your license over the non-charter territories.

The Directors reject his offer of a year's license, but they are

ready (in the public interest) to accept a renewal for twenty-one years, terminable at two years' notice.

Sir E. B. Lytton is sorry he cannot meet their views by acceding to this proposal, although he can well conceive, and would indeed desire, arrangements by which the Indian territory, and all land not likely to be soon colonizable, might be left to the jurisdiction of the Company, provided, on the other hand, the lands adapted for colonization were surrendered to the Crown; yet while the latter object remains unachieved, he does not believe that Parliament or the public would be inclined or ought to assent to a measure which would give Her Majesty's Government, in concert with the Company, the power of continuing the license for twenty-one years.

But he wishes to show every reasonable respect to the argument which you draw from the distance of many of the posts in the license territory, which, by rendering communication with them extremely slow, would make a year's extension of comparatively trifling importance for the purposes in view. The delay in obtaining the decision of Canada may also be fairly taken into consideration as opposing obstacles to arrangements with the Company by which the objection to an ultimate extension of the license might be removed. He is ready, therefore, to make the extension of two years' duration instead of one.

In making this proposal he believes he is acting in the interests of the Company, even in a pecuniary sense alone; that, however, is a question for the Directors and Shareholders, and not for himself. He only refers to it in order to show how far he is from being actuated by any motives inimical to the Company. But the really important aspect of the question (as the Directors will fully agree with him) is that which regards the maintenance of peace and order, and the welfare of the Indian race; and while he believes that the dangers represented as likely to arise if the trade of the Company ceased to be protected by license are much exaggerated, yet he is desirous to guard against the possibility of such dangers during the interval that must elapse necessarily (without any fault of his own) between the abrupt termination of the Company's jurisdiction in parts so remote and the establishment of any other machinery for the safety of the Indians which it might be in the power of

the Government to devise. He is certain that the Directors will take a similar view of this part of the question, and he is satisfied that if they reject his present offer, they will do so on full conviction, from their own superior knowledge, that no evil consequences are to be apprehended from the sudden termination of their license. But should this be an error in judgment on their part, the responsibility for the consequences will not lie with Her Majesty's Government.

Sir E. B. Lytton trusts that as early an answer as practicable may be returned to this letter, as little time is left for communicating with the Governor of British Columbia before the termination of the license; and it may be necessary (in the event of your refusal) to apply to Parliament for an amendment of the present Acts.

I have, &c.,  
(Signed) H. MERIVALE.

H. H. BERENS, Esq.

In 1858 the North-West Transit Company was Incorporated by the Canadian Parliament with the following powers:—To trade in furs, tallow, buffalo meat, hides, fish oil, and other articles of commerce, to improve and make navigable the various channels of such communication, to construct tracks of roads, tramways, and railways between navigable lakes and rivers, so as to provide facilities for transport from the shores of Lake Superior to Fraser River; to own and employ vessels of all kinds upon Lakes Huron and Superior, and upon all the waters, lakes, and rivers lying to the northward and the westward of the latter, thereby offering to their energy and their enterprise a new and vast field for commercial enterprise.

This Act of Incorporation was amended in 1861, giving the Company still greater powers.

These several Acts were recommended for the

Royal Assent by the Governor-General of Canada, and now Governor of the Hudson's Bay Company.

It is therefore almost impossible of belief, that the man, who as Governor-General of Canada furnished the foregoing evidence to Her Majesty's Government and the English Parliament from 1857 to 1861, should, as Governor of the Hudson's Bay Company in 1863, have put his name at the head of a Prospectus as follows:—

THE INTERNATIONAL FINANCIAL SOCIETY, LIMITED, are prepared to receive Subscriptions for the issue at par of Capital Stock in the Hudson's Bay Company, incorporated by Royal Charter, 1670.

The Stock will be issued in Certificates of £20 each, and the instalments will be payable as follows:—

£1, being 5 per cent., on Application, to be returned in the event of no Allotment being made; £4, being 20 per cent., on Allotment; £5, being 25 per cent., on 1st September, 1863; £5, being 25 per cent., on 2nd November, 1863; £5, being 25 per cent., on 1st January, 1864; total £20. With an option of prepayment in full on Allotment, or on either of the days fixed for payment of the instalments, under discount, at the rate of 4 per cent. per annum.

The Capital of the Hudson's Bay Company has been duly fixed at £2,000,000, of which amount the International Financial Society, Limited, have obtained, and are prepared to offer to the public, £1,930,000.

The Subscribers will be entitled to an interest, corresponding to the amount of their subscription, in—

1. The assets (exclusive of Nos. 2 and 3) of the Hudson's Bay Company, recently and specially valued by competent valuers at £1,023,569.
2. The Landed Territory of the Company, held under their Charter, and which extends over an estimated area of more than 1,400,000 square miles, or upwards of 896,000,000 acres.
3. A Cash Balance of £370,000.

The present net income, available for dividend amongst Stockholders of the Company, secures a minimum interest exceeding 4 per cent. on the above £2,000,000 Stock.

*The Directors of the Hudson's Bay Company are as under:—*

The Right Honourable Sir EDMUND HEAD, Bart., K.C.B., (late Governor-General of Canada,) *Governor.*

CURTIS MIRANDA LAMPSON, Esq., (C. M. Lampson & Co.,) *Deputy-Governor.*

EDEN COLVILLE, Esq., Hudson's Bay House, Fenchurch Street.

GEORGE LYALL, Esq., M.P., Headley Park, Surrey.

DANIEL MEINERTZHAGEN, Esq. (F. Huth & Co.).

JAMES STEWART HODGSON, Esq. (Finlay, Hodgson, & Co.).

JOHN HENRY WILLIAM SCHRODER, Esq. (J. H. Schroder & Co.).

RICHARD POTTER, Esq., Standish House, Gloucestershire.

*The Hudson's Bay Company were incorporated under a Royal Charter granted by King Charles II. in 1670, by the name of "The Governor and Company of Adventurers of England trading into Hudson's Bay," and, by the Charter, a vast tract of territory was vested in the Company, together with the sole right of trade and commerce, and all "mines royal," as well then discovered as not discovered, within the said territory.*

The operations of the Company, which, with slight exceptions, have been hitherto exclusively of a trading character, have been prosecuted from the date of the charter to the present day.

It has become evident that the time has arrived when those operations must be extended, and the immense resources of the Company's territory, *lying as it does between Canada and British Columbia*, should be developed in accordance with the industrial spirit of the age, and the rapid advancement which colonization has made in the countries adjacent to the Hudson Bay Territories.

The average net annual profits of the Company (after setting aside 40 per cent. of them as remuneration to the factors and servants at the Company's posts and stations), for the ten years ending the 31st May, 1862, amount to £81,000, or upwards of



4 per cent. on the present nominal Capital of £2,000,000. A portion only of this income has been distributed as dividend, while the remainder is represented in the assets and balances. The assets of the Company, in which the Subscribers will be entitled to an interest corresponding to the amount of their Subscription, will consist of goods in the interior, on shipboard, and other stock-in-trade, including shipping, business premises, and other buildings necessary for carrying on the fur trade, in addition to which there will be funds immediately available for the proposed extended operations of the Company, derived partly from the cash balance of the Hudson's Bay Company, and partly from the new issue of Stock, and amounting in the whole to a sum not less than £370,000.

*The Company's territory embraces an estimated area of more than 1,400,000 square miles, or eight hundred and ninety-six millions of acres, of which a large area, on the Southern Frontier, is well adapted for European colonization. The soil of this portion of the territory is fertile, producing, in abundance, wheat and other cereal crops, and is capable of sustaining a numerous population. It contains 1,400 miles of navigable lakes and rivers, running, for the greater part, east and west, which constitute an important feature in plans for establishing the means of communication between the Atlantic and Pacific Oceans, across the Continent of British North America, as well as for immediate settlement in the intervening country. The territory is, moreover, rich in mineral wealth, including coal, lead, and iron.*

*In addition to its Chartered territory, the Company possess the following valuable landed property :—Several plots of land in British Columbia, occupying most favourable sites at the mouths of rivers, the titles to which have been confirmed by Her Majesty's Government ; farms, building sites in Vancouver's Island ; and in Canada ten square miles at Lacloche, on Lake Huron, and tracts of land at fourteen other places.*

*The trading operations of the Company are chiefly carried on in the fur-bearing and northern portion of the territory, where the climate is too severe for European colonization. These trading operations will be actively continued, and as far as possible extended, whilst the management will be judiciously econonized.*

Consistently with these objects, the outlying estates and valuable farms will be realized where the land is not required for the use of the Company,—*the southern district will be opened to European colonization, under a liberal and systematic scheme of land settlement.* Possessing a staff of factors and officers who are distributed in small centres of civilization over the territory, the Company can, without creating new and costly establishments, inaugurate the new policy of colonization, *and at the same time dispose of mining grants.*

With the view of providing the means of telegraphic and postal communication between Canada and British Columbia, *across the Company's territory*, and thereby of connecting the Atlantic and Pacific Oceans, by an exclusively British route, negotiations have been pending for some time past between certain parties and Her Majesty's Government and the representatives of the Government of Canada, and preliminary arrangements for the accomplishment of these objects have been made through Her Majesty's Government (subject to the final sanction of the Colonies); based upon a 5 per cent. guarantee from the Governments of Canada, British Columbia, and Vancouver Island. In further aid of these Imperial objects, Her Majesty's Government have signified their intention to make grants of land to the extent of about 1,000,000 acres, in portions of the Crown territory traversed by the proposed telegraphic lines.

One of the first objects of the Company will be to examine the facilities and consider the best means for carrying out this most important work, and there can be little doubt that it will be successfully executed either by the Hudson's Bay Company itself, or with their aid *and sanction.*

For this, as well as for the other proposed objects, Mr. Edward Watkin, who is now in Canada, will be commissioned, with other gentlemen specially qualified for the duty, to visit the Red River and southern districts, to consult the officers of the Company there, and to report as to the best and safest means of giving effect to the contemplated operations.

Applications for allotments of Certificates of Stock of £20 each, to be made to the INTERNATIONAL FINANCIAL SOCIETY, LIMITED, at their Offices, 54, Old Broad Street, E. C.

A preference in allotment will be given to parties hitherto

holders of Stock in the Hudson's Bay Company, and to the Shareholders in the International Financial Society, Limited.

No application will be received after Wednesday, 8th July, at 12 o'clock.

We have printed in italics those passages in the Prospectus which are in direct contradiction to the evidence furnished by the Governor-General of Canada. There can be no doubt but that the public subscribed their money almost entirely upon the strength of the names upon the Prospectus; otherwise a careful perusal of the proposal would have convinced them that there were some strange statements contained therein, as we will show.

1. *That the Capital of the Company had been duly fixed at £2,000,000; when it had been published to the world a few days previously that it had been purchased by the International Financial Association for £1,500,000, and that even this Society had given £500,000 more than the price of the stock in the market at that time.*

2. *That the assets, exclusive of the land and cash balance, had been recently and specially valued by competent valuers at £1,023,569; a work that must have taken a year to complete, inasmuch as they are spread over some two millions of square miles, whereas the International Financial Company had only been formed a few weeks at that time. It may be very properly asked who the competent valuers were, and who employed them?*

3. *The landed territory of the Company, held under their Charter, and which extends over an estimated area of more than 1,400,000 square miles, or upwards of*

896,000,000 acres ; when even the Governor of the Company of his own personal knowledge did know, and all the other Directors ought to have known, with common prudence, that the whole of this land adapted for settlement was the property of Canada.

4. *A cash balance of £370,000.* If this is so, why with the new issue of stock should not the Company have a cash balance of £870,000, instead of £370,000, as stated in the fourth paragraph of the Prospectus ?

5. *The assertion in the first paragraph of the Prospectus that the Company was incorporated by Royal Charter granted by Charles the 2nd, and by the Charter a vast tract of territory was vested in the Company, together with the sole right of trade and commerce, and all " mines royal," as well then discovered as not discovered, within the said territory ; when the Governor, as Governor-General of Canada, had shown that the Charter was invalid, that their exclusive right of trade had been declared by the Governor's own witness, Sir H. Draper, to be utterly untenable, and that the free settlers on Red River and elsewhere treat their assumption as a usurpation, and are in open rebellion to their authority.*

6. *That the operations of the Company, which, with slight exceptions, have been hitherto exclusively of a trading character, have been prosecuted from the date of the Charter to the present day,—some of the slight exceptions being, no doubt, their war with*

the North-West Company, which, to use the words of the late Governor, "*was characterised by scenes of demoralization and destruction of life and property; ample details of the revolting subject would be found in the Colonial Office, and that the only possibility of restraining a repetition of this violence and crime was by giving to the Company a renewed exclusive right of trade, and preventing the recurrence of competition. This looks very much like murder and robbery, and securing to the criminals the monopoly of the spoil, and is probably one of the slight exceptions to the trading character of the Company alluded to.*"

7. That,—*It has become evident that the time has arrived when those operations (not the slight exceptions, we hope) must be extended, and the immense resources of the Company's territory, lying as it does between Canada and British Columbia, &c. Now, the only territory between Canada and British Columbia, the Governor, when Governor-General of Canada, had produced witnesses and evidence to the Imperial Government and House of Commons, to prove that it belonged to Canada.*

But, even admitting this territory belonged to the Company, the resident Governor, in a letter to the Canadian Government, dated the 10th April, 1862, writes as follows:—

You also point out the danger of the Red River settlement from its close connexion with Minnesota, consequent on its isolated position with regard to Canada, becoming imbued with American principles and views, and passing away to our rivals,

thus depriving the country of the key of the trade to British Columbia and ultimately to China.

While fully admitting the force of the above arguments, and the immediate necessity of some arrangement being come to, I am reluctantly compelled to admit my inability to meet the Government of Canada in this forward movement, for the following reasons :—

First, the Red River and Saskatchewan Valleys, though not in themselves fur-bearing districts, are the sources from whence the main supplies of winter food are procured for the northern posts from the produce of the buffalo hunts. A chain of settlements through these valleys would not only deprive the Company of the above vital resource, but would indirectly in many other ways so interfere with their northern trade as to render it no longer worth prosecuting on an extended scale. It would necessarily be diverted into various channels, possibly to the public benefit, but the Company could no longer exist on its present footing.

The above reasons against a partial surrender of our territories may not appear sufficiently obvious to parties not conversant with the trade on the country ; but my knowledge of both, based on personal experience, and from other sources open to me, points to the conclusion that partial concessions of the districts which must necessarily be alienated would inevitably lead to the extinction of the Company.

8. *That the assets of the Company, in which the Subscribers will be entitled to an interest corresponding to the amount of their Subscription, will consist of goods in the interior, on shipboard, and other stock-in-trade, including shipping, business premises, and other buildings necessary for carrying on the fur trade, in addition to which there will be funds in hand immediately available for the proposed extended operations of the Company, derived partly from the cash balance of the Hudson's Bay Company, and partly from the new issue of Stock, amounting in the whole to a sum not less than £370,000.*

As to the stock-in-trade, it is not shown who the competent valuers are, or by whom appointed, and if the valuation was made or not upon the assumption of a continuation of the exclusive privilege of trade; and as to the sum of £370,000 available for extended operations, this amount should clearly have been £500,000, without anything from the cash balance of the Hudson's Bay Company, inasmuch as the old proprietors were paid £1,500,000, and the subscriptions for the new stock fixed at £2,000,000.

9. The next paragraph is but a repetition of an asserted title to property which the Governor of the Company did know, and other Directors might have known, belonged to Canada.

10. The next paragraph *as to the land in British Columbia, Vancouver's Island, and other places*. It is but right that the Subscribers should know that the free settlers in British Columbia and Vancouver Island deny the validity of these appropriations, and that the first act of the first free Legislature of Vancouver Island was to appoint a Select Committee to inquire into the appropriations in question.

11. *That the operations of the Company are chiefly carried on in the fur-bearing and northern portion of the territory, where the climate is too severe for European colonization*, is an admission on the part of the Company that they have for forty years systematically opposed colonization in the southern country, which was unprofitable to them.

12. *That, consistently with these objects, the outlying estates and valuable farms will be realized where the land is not required for the use of the Company,—the southern district will be opened to European colonization, under a liberal and systematic scheme of land settlement; when, in the first place, the land in the southern district does not belong to them; and if it did, the only possible chance of securing the settlement of the country is by free land grants to the settlers, and the rest of the public domain to be applied in facilitating the construction of roads and bridges, and the expense of governing the country, the only possible system of modern colonization being to administer the public lands for the benefit of the colony, and not for an absentee proprietary in London.*

13. *That with the view of providing the means of telegraph and postal communication between Canada and British Columbia, across the Company's territory, and thereby of connecting the Atlantic and Pacific Oceans, by an exclusively British route, negotiations have been pending for some time past between certain parties and Her Majesty's Government and the representatives of the Government of Canada, and preliminary arrangements for the accomplishment of these objects have been made through Her Majesty's Government (subject to the final sanction of the colonies), based upon a 5 per cent. guarantee from the Governments of Canada, British Columbia, and Vancouver Island. In further aid of these Imperial objects, Her Majesty's Government have signified their intention to make grants of land to the*



extent of about 1,000,000 acres, in portions of the Crown territory by the proposed telegraphic lines; when in fact Canada never contemplated giving any such guarantee, only on the assumption that the whole of the territory to be traversed by the road and telegraph between her settled boundaries and the Rocky Mountains belonged to her.

For Canada to do what the Prospectus leads the public to believe, is as absurd as if she was to ask the province of New Brunswick and the Red River Settlement to guarantee the cost of the Grand Trunk Railway, whilst as to the 1,000,000 acres to be given by the Crown, it would be very difficult to define where it is, inasmuch as Canada claims the whole country to the Rocky Mountains, and British Columbia the rest.

14. *That one of the first objects of the Company will be to examine the facilities and consider the best means for carrying out this most important work, and there can be little doubt that it will be successfully executed either by the Hudson's Bay Company itself, or with their aid and sanction.* Can anyone really believe for a moment that the Governments of Canada, British Columbia, and Vancouver Island have such an abundance of money that they will pay the Hudson's Bay Company for the cost of that Company building a road and telegraph for 1,500 miles through the territory which it claims as its own, and contributes not a shilling to expenses of the Governments of either Canada, British Columbia, or Vancouver Island?

15. *That for this, as well as the other proposed objects, Mr. Edward Watkin, who is now in Canada, will be commissioned, with other gentlemen specially qualified for the duty, to visit the Red River and southern districts, to consult the officers of the Company there, and to report as to the best and safest means of giving effect to the contemplated operations.*

Upon this paragraph we will only observe that the gentleman named therein did not find it prudent to proceed further than Montreal. In fact, his mission utterly failed, inasmuch as nothing could be done without the concurrence of Canada, but the Canadian Government declined to hold any communication with him.

Defeated in their direct negotiations with the Canadian Government, the Company next resorted to the expedient of addressing their proposals through the Colonial Office, but which ended in their being rejected by an Order in Council. And the Governor-General of Canada, in opening the Canadian Parliament on the 19th day of February last, in his speech from the throne, said :—

“The condition of the vast region lying on the North-West of the settled portions of the province is daily becoming a question of greater interest. I have considered it advisable to open a correspondence with the Imperial Government, with a view to arrive at a precise definition of the geographical boundaries of Canada in that direction. Such a definition of boundary is a desirable preliminary to further proceedings with respect to the vast tracts of land in that quarter belonging to Canada, but not yet brought under the action of our political and municipal system.”

In the debate on the Address on the 1st of March.

the Hon. Mr. Macdougall, Minister of Crown Lands, having charge of this question, said:—

“They (the Government of Canada) soon came to the conclusion that the first thing to be done was to determine whether the Red River territory belonged to Canada or to some other country, and the consequence was that a correspondence had been opened with the Imperial Government on the subject, as stated in the speech. He did not know that there was any harm in his stating his individual view of the case at the present time, which was that Canada was entitled to claim as a portion of its soil all that part of the North-West territory that could be proved to have been in the possession of the French at the time of the cession of Canada to the British.”

The Hon. Mr. Cartier, during the same debate, stated that the Government of which he was a member had, in 1858, asserted the claims of Canada to this territory, even in a much stronger form. The House were unanimous in the expression that the time had arrived when the question should be finally settled.

In conclusion, we have traced as briefly as possible the history of this case up to the last act of the Canadian and British Governments and the Company. The evidence adduced before the Committee of the House of Commons, in 1857, on the part of Canada, conclusively proved that the whole of the fertile tract of country adapted for colonization, extending from their Western settlements to the Rocky Mountains, is the undoubted property of that province, and that the exclusive privilege of trade claimed by the Hudson's Bay Company over any portion of the North American Continent is invalid.

That Canada subsequently declined to be a party to any arrangement—even if the Red River and Saskatchewan country were conceded to her, which would restrict her from testing in whatever form she thought best the validity of the rights claimed by the Company under their Charter over any other portion of the North-West territory.

That the late Governor of the Hudson's Bay Company in England, Captain Shepherd, in 1858, and the present resident Governor of the Company in Canada, Mr. Dallas, in 1862, expressed the opinion that the cession of the Red River and Saskatchewan country would inevitably lead to the extinction of the Company.

That it was the intention of Lord Derby's Administration to have tested the validity of the Company's Charter with or without the co-operation of Canada, and if proved to be valid, then to purchase out the rights of the Company, the Government believing that a proprietary jurisdiction intervening between Canada and British Columbia was inimical to their progress, and should not be allowed any longer to exist.

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That a number of gentlemen, including Messrs. Baring and Glyn, the Financial Agents of the Government of Canada, addressed a communication to the Duke of Newcastle in July, 1862, upon the subject of establishing a road and telegraph to British Columbia, and the Government of Canada, relying upon this movement being made in good faith, rendered the most liberal support.

That suddenly, without any communication with the Government of Canada and unknown to them, —and without the concurrence of either the Financial Agents of Canada, Messrs. Baring and Glyn, or Mr. Crawford, or Mr. Chapman,—Mr. Watkin and Mr. Benson arranged the sale and purchase of the Hudson's Bay Company, giving £500,000 more for it than what it was worth in the open market.

That the Duke of Newcastle had been so far misinformed as to state in the House of Lords that the purchase had been effected for Messrs. Baring and others associated with him.

That the purchase was no sooner completed than it was issued to the public at £2,000,000, being just double the price it was worth in the open market.

That a prospectus was issued, headed by the late Governor-General of Canada as Governor, setting up all the claims under the Charter, which he had conclusively proved were invalid, and at the same time incorrectly stating that the Governments of Canada and British Columbia were willing to guarantee the cost of constructing and maintaining a road and telegraph through the territory.

That such a purchase and re-issue as that effected by Mr. Watkin and the International Financial Society was directly in opposition to the views entertained by the gentlemen who first moved in the matter, and a betrayal of the most vital interests of Canada; the only purchase

which could be satisfactory to Canada being one which would terminate a proprietary interest intervening between Canada and British Columbia, and put an end once and for ever to a Charter which is a disgrace to the age in which we live.

That, in the face of all this, the Company had the indiscretion to instruct Mr. Edward Watkin to submit proposals to the Canadian Government, but which ended, as might naturally be expected, in their being rejected, and the Home Government being invited to join Canada in defining the boundaries of that province without the intervention of the Hudson's Bay Company.

The new management have now been in possession upwards of ten months; they have done nothing but set up and attempt to perpetuate all the monstrous claims of the old company; they have incurred thereby the direct hostility of the Canadian people, and their proposals to the Canadian Government upon the subject of the road and telegraph have been rejected by an Order in Council. They have so far exasperated the people of Canada by their glaring attempts to trifle with her most vital interests, that no Government can exist in that country which would venture to admit any one of the material claims set up by the Company under their Charter. Nothing in any other respect has been done or acquired to make the property of the Company worth more than £1,000,000, its value twelve months ago, but important events have occurred to make it worth much less. Proceedings

have been commenced, which, according to the evidence of the resident Governor of the Company in Canada, Mr. Dallas, will inevitably lead to the extinction of the Company. *The valleys of the Red River and Saskatchewan belong to Canada; a chain of settlements and a road and telegraph through them will be shortly established;* and then, without the necessity of appeal to any court of law, there will be an end of the exclusive privilege of trade and other monstrous claims set up by the Company.

The old proprietary had claims for consideration from the Imperial Government; the new proprietary have none. They entered upon the adventure with all the evidence we have adduced open to them. They, no doubt, subscribed their money purely upon the strength of the names which appeared in the prospectus. We have shown by public documents of the most authoritative kind, and furnished mainly by the Governor of the Company himself, when Governor-General of Canada, that in nearly all the essential paragraphs of that prospectus the statements are fallacious.

The sooner the new Shareholders can reconcile themselves to the fact that the Company is not an institution which the age will longer tolerate, the better. The assets of the Company are like an old ship, only just worth what they will fetch to "break up;" for in fact their "occupation's gone." The old proprietary, with an instinct so characteristic of them, left the old ship last year. The new proprietary are the victims of a mis-

placed confidence; they have been imposed upon by a combination which it would not be unjust to say possessed "all the talents;" but they may rest assured it will be hereafter recorded in the history of our country that the first scheme introduced by a Financial Company in England was one of the most monstrous up to that period ever palmed upon the credulity of the British people.